AN EDITION AND COMMENTARY OF ALPHONSE THE WISE'S SIETE PARTIDAS, BOOK VII, TITLE XXIV, "DE LOS JUDIOS"

A dissertation by

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presented to

The Faculty of the

Graduate Theological Union

in partial fulfillment of the

requirements for the degree of

Doctor of Philosophy

Berkeley, California

24 February 1982

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ACKNOWLEDGEMENTS

In the course of the writing of this dissertation, I have enjoyed the splendid assistance of many people. Though I am indebted to all of them, I should like to record my particular appreciation to the following individuals: To Professor Jerry R. Craddock for his untiring efforts and consummately good cheer when confronted with successive waves of text and variants; to Professor Daniel Matt for his encouragement, enthusiasm, and mutual sharing of medieval Hispano-Jewish history; to Professor Charles B. Faulhaber for allowing me to take advantage of his extensive knowledge of paleography and textual criticism; and to Professor Elizabeth Vodola for her perceptive reading of the dissertation, and for her consistently valuable suggestions regarding questions in the areas of Roman and canon law. Thanks are also due Professor Yosef H. Yerushalmi of Columbia University for his incisive comments and wide-ranging ideas in the field of medieval Spanish Jewry. Ann Kahn, of the same institution, contributed numerous linguistic and historical insights. Dean Elizabeth K. Over of the Graduate Theological Union deserves my gratitude for her administrative help, advice, and support throughout my doctoral program. Finally, I would be remiss in my filial obligations not to register my appreciation to my parents for their unstinting encouragement, and it is to them I dedicate this thesis.

1 Adar 5742
24 February 1982

CONTENTS

Part I

Introduction. 1

Description of Witnesses, Manuscript and Printed. 7

Formulation of Tentative Manuscript Families. 20

Explanation of Variants 29

Editorial Criteria. 36

Critical Edition and Apparatus 39

Part II

Historical Introduction 107

Commentaries: 7.24.0 115

7.24.1 128

7.24.2 138

7.24.3 151

7.24.4 162

7.24.5 178

7.24.6 195

7.24.7 207

7.24.8 217

7.24.9 233

7.24.10 248

7.24.11 260

Conclusion. 273

Bibliography. 277

INTRODUCTION

In 1252, Alfonso X, son of the illustrious Ferdinand III, ascended the throne of Castile and Leon.[1] From the outset of his reign, the young monarch faced a number of formidable, and ultimately insurmountable, challenges. Not only were his repeated attempts to become Holy Roman Emperor continually thwarted, but the unremitting clashes between nobility and monarchy were a source of nagging frustration throughout Alfonso's reign.[2] Moreover, though Ferdinand III had made remarkable strides in reconquering large areas of the Iberian Peninsula, it remained for Alfonso to maintain his father's conquests and, even more important, to attempt to unify them geographically, politically, and linguistically.

Given the magnitude of the political and administrative tasks confronting Alfonso X, together with his obvious predilection for learning and scholarship, it is not altogether surprising that he was more successful in cultivating his intellectual interests than in realizing his political ambitions. Indeed, for the most part, Alfonso X deserves the sobriquet "el Sabio" in recognition of his multifarious accomplishments in the realms of science (primarily astronomy), historiography, literature (sacred and secular), and jurisprudence.[3] This is not to say, of course, that Alfonso the Wise was uniformly proficient or learned in all of the various spheres of his investigations. To a large degree, the expansive scope of many of his intellectual projects--the *General Estoria* and *Siete Partidas*, to mention only two wide-ranging works--manifests a penchant for glorious schemes and majestic panoramas, rather than restricted, analytic endeavors. In any case, Alfonso's shortcomings as person and monarch, the result of inopportune political designs and faulty statesmanship, have been effectively overshadowed by an emphasis--at times uncritically enthusiastic--on the monarch's passionate devotion to a broad spectrum of intellectual enterprises.

Since it would be impossible to treat competently in a single work all the areas of learning pursued by Alfonso the Wise, in the present study we will discuss in depth certain aspects of Alfonso's contribution to medieval jurisprudence. In particular, we will examine the Alphonsine legislation concerning the Jews, as found in the *Siete Partidas*, Book VII, title xxiv, "De los judíos."

The study of these statutes is of considerable interest and importance, especially in view of the widely-acknowledged administrative and fiscal influence exerted by Jews in the Alphonsine court. Furthermore, the vital role played by Jews in various cultural and intellectual endeavors associated with Alfonso X underscores the significance of a detailed appraisal of their legal status under the Christian monarch. In a broader sense, an examination of the pertinent laws of the Siete Partidas will enable us to understand more fully the evolution of medieval Christian attitudes towards Jews and Judaism. In this regard, the Jewish legislation of Alfonso X is particularly illustrative, since the thirteenth century witnessed the last prolonged period of relatively tolerant policies and attitudes towards medieval Hispanic Jewry. Equally important, it was the zenith of all canonical legislation regulating Jewish-Christian relations. Finally, an analysis of title xxiv will allow us to consider the degree to which Alfonso's fame as an enlightened, tolerant monarch is justified.

Although the examination of the Alphonsine legislation regarding Iberian Jewry suggests several provocative and potentially rewarding areas of investigation, including the precise manner in which the Alphonsine jurists framed their legislation, the extent to which Alfonso X participated in the preparation of the Siete Partidas, and the role of the Jews in Alfonso's court, constraints of time and space allow but a mention of these questions. The purpose of the present study is to lay the linguistic and historical foundations for further work in these and other areas.

This study will consist of two parts: first, a critical edition of Siete Partidas, Book VII, title xxiv, "De los judíos," including a description of the manuscripts consulted in the preparation of this edition, as well as the editorial criteria we have adopted, and second, an overview of the Jewish presence in Spain up to the fifteenth century, followed by a detailed study of each law in title xxiv. A conclusion and select bibliography will complete this edition and commentary.

NOTES

[1] Panoramic surveys of the life and times of Alfonso X are contained in Juan Ríos Sarmiento, _La vida y los libros de Alfonso el Sabio_ (Barcelona: Editorial Juventud, 1943); José Augusto Sánchez Pérez, _Alfonso X el Sabio_ (Madrid: Aguilar, 1944); Evelyn S. Procter, _Alfonso X of Castile, Patron of Literature and Learning_ (Oxford: Clarendon Press, 1951); Antonio Ballesteros y Beretta, _Alfonso X el Sabio_ (Barcelona: Salvat Editores, 1963); and John Esten Keller, _Alfonso X, el Sabio_ (New York: Twayne Publishers, 1967).

[2] For an overview of Alfonso's struggles with the nobility and his attempts to vindicate his imperial claims, see A. Steiger, "Alfonso X el Sabio y la idea imperial," _Arbor_, 6 (1946), 389-402; J. A. Maravall, _Estudios de historia del pensamiento español_ (Madrid: Cultura Hispánica, 1967), pp. 116-7; Luis Suárez Fernández, _Historia de España. Edad Media_ (Madrid: Gredos, 1970), pp. 305-23; J. F. O'Callaghan, _A History of Medieval Spain_ (Ithaca-London: Cornell University Press, 1975), pp. 372, 430-1; J. N.

Hillgarth, *The Spanish Kingdoms*. *1250-1516*. I: *1250-1410*. *Precarious Balance* (Oxford: Clarendon, 1976), pp. 306-9.

[3] On the much-debated issue of Alphonsine authorship of the works produced at Alfonso's court, see in particular A. G. Solalinde, "Intervención de Alfonso X en la redacción de sus obras," *Revista de Filología Española*, 2 (1915), 283-8; E. S. Procter, "The Scientific Activities of the Court of Alfonso X of Castile: The King and His Collaborators," *Modern Language Review*, 40 (1945), 12-19; Gonzalo Menéndez Pidal, "Cómo trabajaron las escuelas alfonsíes," *Nueva Revista de Filología Hispánica*, 5 (1951), 363-80; Américo Castro, *La realidad histórica de España* (México: Porrúa, 1954; rev. ed., 1962), pp. 451-68; Diego Catalán, "El taller historiográfico alfonsí: Métodos y problemas en el trabajo compilatorio," *Romania*, 84 (1963), 354-75; and David Romano, "Le opere scientifiche di Alfonso X e l'intervento degli ebrei," *Oriente e Occidente del Medioevo* (Roma: Accademia Nazionale dei Lincei, 1971), 677-711.

Description of Witnesses, Manuscript and Printed

From the outset of his task, the editor of nearly any portion of the Siete Partidas is confronted with a plethora of textual difficulties. The first of these problems, that of selecting a base manuscript, is exacerbated both by the number of texts--there are at least 15 manuscript and printed witnesses of title xxiv--and by their varying states of completeness and legibility. It is readily apparent that, unlike British Museum MS 20.787 of the Primera Partida,[1] none of the extant manuscripts of Book VII, title xxiv (VII.xxiv), derives from the royal scriptorium of Alfonso X. Furthermore, none of these manuscripts can justifiably serve as the base manuscript for our critical edition. The manuscripts of title xxiv at our disposal must be disqualified on a number of grounds, including age (no manuscript dates from before the fourteenth century), legibility, and completeness. Of greater concern is the fact that many, if not all, the manuscript witnesses show evidence of scribal contamination; that is, when copying a given text, the scribe used two or even several exemplars concurrently, incorporating readings from more than one manuscript into the new text. A manuscript, then, may include readings from various earlier manuscripts, depending upon the copyist's familiarity with the text, as well as the condition of the manuscripts and the number of manuscripts to which he had access. As a result of this textual contamination, it is impossible to determine with certainty the stemmatic relationship of the several witnesses, although general family relationships of the manuscripts will be identified.[2]

Given the necessarily tentative nature of any stemma derived from contaminated manuscripts, and the consequent impossibility of selecting an appropriate base manuscript from among our corpus of manuscripts, it appears most reasonable to base our edition upon a considered examination of all extant manuscript witnesses, with recourse to other Alphonsine texts.[3] Throughout the edition, "commonsense" criticism of the type advocated by A. E. Housman has been the guiding light.[4] The resulting edition, based upon a careful consideration of all available witnesses, is both critical and eclectic, and purports to offer the reader an accurate text, complete with critical apparatus, of Siete Partidas, VII.xxiv, "De los judíos."

Manuscripts

In the present study we have collated 12 manuscripts and three printed editions. The manuscripts are presented first with their catalogue number and then with the sigla which will identify them in the critical edition.

MS	M.i.1	Biblioteca del Monasterio de El Escorial	= E_1
MS	Z.i.16	" " " "	= E_2
MS	Y.iij.18	" " " "	= E_3
MS	Y.ij.2	" " " "	= E_4
MS	Z.i.12	" " " "	= E_5
MS	580	Biblioteca Nacional de Madrid	= N_1
MS	708	" " "	= N_2
MS	vitrina 4-6	" " "	= N_3
MS	C-65	Biblioteca de la Real Academia de la Historia	= H_1
MS	D-23	" " " "	= H_2
MS	XXIV	Colegiata Real de San Isidoro	= C
MS	3087	Biblioteca del Palacio	= P

Below are listed the sigla of the manuscripts utilized in the Academia de la Historia edition of the *Siete Partidas* (1807). The second column contains the sigla of the various libraries, while the third contains the sigla employed in the present edition of *SP*, VII.xxiv. The Academicians were unaware of, or failed to utilize, manuscripts N_3, C, and P.

Biblioteca Real	1.º	(D-9 = 580)	N_1
Biblioteca Real	2.º	(D-59 = 708)	N_2
Escurialense	1.º	(Z.i.16)	E_2
Escurialense	2.º	(M.i.1)	E_1
Escurialense	3.º	(Z.i.12)	E_5
Escurialense	4.º	(Y.ij.2)	E_4
Escurialense	5.º	(Y.iij.18)	E_3
Salmantino		(C-65)	H_1
Academia de la Historia		(D-23)	H_2

Printed editions

It has long been apparent to students of the Spanish Middle Ages that the edition of the Siete Partidas undertaken by the Real Academia de la Historia (1807) is unsatisfactory on several counts. First, the number of manuscripts used in the edition is limited, only nine having been consulted in the preparation of Book VII, for example. More important, however, is the fact that the Academia edition is hardly critical; indeed, title xxiv is based almost exclusively--and it would seem rather arbitrarily--upon a single manuscript from the Biblioteca Nacional, and only sporadically are variant readings provided. The printed text is, therefore, incomplete and, at times, erroneous.[5]

The Academy edition, undertaken ". . . para que diere a la luz pública las obras de don Alfonso el X. . .," is actually the third important edition of the Siete Partidas.[6] In October, 1491, Alonso Díaz de Montalvo brought out in Seville the first printed edition of the Alphonsine legal work. A month later, a second edition of Montalvo's text was published in the same city. The inferior quality of this edition was noted by Montalvo's contemporaries, who complained that the errors contained therein ". . . fueron multiplicadas de edición en edición de las que siguieron el mismo texto."[7] Brief references, in the form of "adiciones," to the late-medieval "Ordenanças reales," accompany the 1491 edition. Ten years later a glossed edition appeared in Venice.[8]

In the middle of the sixteenth century, the jurist Gregorio López set about to remedy the deficiencies of Montalvo's edition. The result was a new edition of the Partidas, complete with full Latin commentary (1555). López' edition, though somewhat more satisfactory than Montalvo's, contains no account of the manuscripts consulted by López, does not record variants, nor provides any rationale for the final composite text. Indeed, it is apparent that in many instances López used almost exclusively Montalvo's edition, rectifying only the most blatant errors. No doubt the most valuable aspect of López' edition is his commentary citing canonical and civil law precedents for and parallels with Alfonso's legislation.

Description of manuscript and printed witnesses

The following constitutes a brief description of the various manuscript and printed witnesses consulted in the course of this edition and study. In those instances where a given manuscript has been adequately described in a prior work, we provide the pertinent bibliographic citation. Manuscripts designated with an asterisk have been utilized in photocopy; the remainder have been examined directly.[9]

1. MS M.i.1 (E_1) Biblioteca del Monasterio de El Escorial. 14th century. 93 folios. Paper. Book VII, title xxiv: folios $69v_a$-$72r_a$ (Zarco Cuevas, *Catálogo de los manuscritos castellanos*, II, p. 267; Simón Díaz, *Bibliografía*, III.1, pp. 132-3 [no. 1219]; *BOOST*$_2$, p. 9 [no. 169]).

2. MS Z.i.16 (E_2) Biblioteca del Monasterio de El Escorial. 14th century. i + 48 folios. Parchment. Book VII, title xxiv: folios 35r-36v (Zarco Cuevas, *Catálogo de los manuscritos castellanos*, III, p. 91; Simón Díaz, *Bibliografía*, III.1, p. 133 [no. 1220]; *BOOST*$_2$, p. 9 [no. 171]).

3. MS Y.iij.18 (E_3) Biblioteca del Monasterio de El Escorial. 15th century. 172 folios. Paper. Book VII, title xxiv: folios 61v-64r (Zarco Cuevas, *Catálogo de los manuscritos castellanos*, III, p. 55; *BOOST*$_2$, p. 9 [no. 163]).

4. MS Y.ij.2 (E_4) Biblioteca del Monasterio de El Escorial. 14th century. 168 folios. Paper. Book VII, title xxiv: folios 139v_b-142v_a (Zarco Cuevas, *Catálogo de los manuscritos castellanos*, III, pp. 22-3; *BOOST*$_2$, p. 9 [no. 160]).

5. MS Z.i.12 (E_5) Biblioteca del Monasterio de El Escorial. 14th century. ii + 141 folios. Parchment. Book VII, title xxiv: folios 126v_a-128r_b (Zarco Cuevas, *Catálogo de los manuscritos castellanos*, III, pp. 87-8; *BOOST*$_2$, p. 9 [nos. 159, 161]).

*6. MS 580 (N_1) Biblioteca Nacional de Madrid. 15th century. 176 folios. Parchment. Book VII, title xxiv: folios 146r_a-149r_b (*Inventario general*, II, p. 81; *BOOST*$_2$, p. 9 [no. 162]).

*7. MS 708 (N_2) Biblioteca Nacional de Madrid. 15th century. 155 folios. Parchment. Book VII, title xxiv: folios 109v_b-114v_a (*Inventario general*, II, pp. 182-3).

*8. MS vitrina 4-6 (N_3) Biblioteca Nacional de Madrid. 15th century. Ca. 456 folios. Parchment. Book VII, title xxiv: folios (Craddock, "Cronología de las obras legislativas de Alfonso X el Sabio," [to appear in *Anuario de Historia del Derecho Español*, 51 (1981)]).

9. MS C-65 (formerly 12-25-4) (H$_1$) Biblioteca de la Real Academia de la Historia. 14th century. 150 folios. Parchment. Book VII, title xxiv: folios 108r-113r Titles are in red, capitals are in red and blue, as are the marginal decorations. Inside the front cover is written in an 18th-century hand: "Alonso lo Rey de Castilla/ Se hallo entre los manuscritos del colegio mayor de San Bartolome/ Es la Partida 7^{a}." *Incipit*: "Oluidança e atreuimiento son dos cosas *que* fazen a los omes errar mucho. . ." (fol. 3r). *Explicit*: ". . . que abondan los enxienplos *que* aqui auemos mostrados. Este libro ffue acabado martes quinze dias de abril [era] de mill *e* ccc *e* ssestenta *e* tres annos [=1325] *qui* me scripsit sscribat ssenper con domjno viuat" (fol. 150r). (Simón Díaz, *Bibliografía*, III.1, p. 132 [no. 1218]; *BOOST*$_2$, p. 9 [no. 167].

10. MS D-23 (formerly 12-26-1) (H$_2$) Biblioteca de la Real Academia de la Historia. 15th century. Parchment. i + 67 folios. Book VII, title xxiv: folios $49r_a$- $51r_a$ (Simón Díaz, *Bibliografía*, III.1, p. 133 [no. 1221]; *BOOST*$_2$, p. 9 [no. 172].

11. MS XXIV (C) Colegiata Real de San Isidoro. 14th century (1 March 1347). Paper. *Siete Partidas* (fragment: xvii.12-end). 12 folios. (Pérez Llamazares, *Catálogo de los códices y documentos*, p. 45, gives the erroneous foliation "19".)

(Arias Bonet, "Manuscritos de las *Partidas* en la Real Colegiata de San Isidoro de León," *Anuario de Historia del Derecho Español*, 35 [1965], 565-8; BOOST_2, p. 9 [no. 170].

*12. MS 3087 (formerly VIII G 4) (P) Biblioteca de Palacio. 15th century. 335 folios. Paper. Book VII, title xxiv: folios 291r-294v Originally two different manuscripts; the first, *Partida VI*, dated 3 March 1401, occupies folios 1r-175r. The second part, *Partida VII*, 15th century, occupies folios 178r-334r. Extensive marginalia and annotation on the final leaf (fol. 335). Written in a single column, with red titles and spaces left blank for initials. *Incipit*: "[O]lujdança *e* atreujmiento. . ." (fol. 179r).

Printed editions

13. Alfonso de Montalvo, *Las Siete Partidas* (Sevilla: Ungut y Polono, 1491). I have used a microfilm of the copy found in the Hispanic Society of America. (K. Haebler, *Bibliografía ibérica del siglo XV* [The Hague: Nijhoff/ Leipzig: Hiersemann, 1903-17], I [518]; F. Vindel, *El arte tipográfico en Sevilla y Granada durante el siglo XV*, V [Madrid: Dirección General de Relaciones Culturales, 1949], pp. 93-8). (M)

14. Gregorio López, *Las "Siete Partidas" del sabio rey don Alonso el nono* [sic], *nuevamente glosadas*, III (Salamanca: Andrés de Portonaris, 1555). (L)

15. Real Academia de la Historia, *Las "Siete Partidas" del rey don Alfonso el sabio*, III (Madrid: Imprenta Real, 1807). (A)

NOTES

[1] Juan Antonio Arias Bonet, ed., *Primera "Partida," según el manuscrito Add. 20.787 del British Museum*, con estudios complementarios de Guadalupe Ramos, José Manuel Ruiz Asencio y Juan Antonio Arias Bonet (Valladolid: Universidad de Valladolid, 1975).

[2] For a discussion of the difficulties presented by contaminated texts, as well as other textual questions, see W. W. Greg, *The Calculus of Variants. An Essay on Textual Criticism* (Oxford: Clarendon Press, 1927), and "Recent Theories of Textual Criticism," *Modern Philology*, 28 (1930), 401-4; William P. Shepard, "Recent Theories of Textual Criticism," *Modern Philology*, 28 (1930), 129-41; Alan S. C. Ross, "A Theory of Emendation," *Speculum*, 9 (1934), 179-83; Edward B. Ham, "Textual Criticism and Common Sense," *Romance Philology*, 12 (1958-59), 198-215; Cesare Segre, "The Problem of Contamination in Prose Texts," in *Medieval Manuscripts and Textual Criticism*, ed. Christopher Kleinhenz (Chapel Hill: North Carolina Studies in the Romance Languages and Literatures, 1976), pp. 117-22.

[3] These have been consulted in order to resolve questions of syntax, preferred forms (e.g., 'para' vs 'pora'), and general difficulties regarding Alfonso's style and vocabulary. Though no single Alphonsine text has been emphasized, the most useful works have been the edition of the *Primera Partida* (see note 1), and the *General Estoria*, ed. Antonio G. Solalinde, Lloyd A. Kasten, and Víctor R. B. Oelschläger (Madrid: C.S.I.C., Instituto "Miguel de Cervantes," 1957-61).

[4] See Ham, "Textual Criticism and Common Sense," and Housman, *M. Annaei Lucani Belli Civilis Libri Decem* (Oxford: Blackwell, 1927), pp. v-xxxvi.

[5] The Academy edition is clearly based almost exclusively on MS 708 (=N_1) of the Biblioteca Nacional, listing only nine variants in the edition of title xxiv. Since N_1 is a fifteenth-century manuscript, many of the forms employed do not reflect either thirteenth-century or Alphonsine usage.

[6] Ed., I, p. iii. The significance of these three is that they are based on manuscripts, rather than on other printed editions. In this regard, see J. H. Herriott, "The Validity of the Printed Editions of the *Primera Partida*," *Romance Philology*, 5 (1951-52), 165-74.

[7] Quoted in Enrique Arana, "Las *Siete Partidas*: Código de don Alfonso el Sabio (1256-1263): Bibliografía y notas históricas," *Boletín de la Biblioteca* [Universidad Nacional de Buenos Aires], 1 (1932), 69.

[8] The glossed edition is Venice: Lucantonio de Giunta, 1501.

[9] The full bibliographic citations for the works included in the manuscript descriptions are as follows: Julio Pérez Llamazares, *Catálogo de los códices y documentos de la Real Colegiata de San Isidoro de León* (León: Imprenta Católica, 1923); Julián Eusebio Zarco Cuevas, *Catálogo de los manuscritos castellanos de la Real Biblioteca de El Escorial*, 3 vols. (Madrid, 1924-29); *Inventario general de manuscritos de la Biblioteca Nacional*, II (Madrid: Ministerio de Educación Nacional, 1956); José Simón Díaz, *Bibliografía de la literatura hispánica*$_2$, III.1 (Madrid: C.S.I.C., Instituto "Miguel de Cervantes," 1963); *Bibliography of Old Spanish Texts: Literary Texts*$_2$, ed. Anthony Cárdenas, Jean Gilkison, John Nitti, and Ellen Anderson (Madison, Wisconsin: The Hispanic Seminary of Medieval Studies, Ltd., 1977).

Formulation of Tentative Manuscript Families

In establishing the text of title xxiv, I have examined in detail all of the variant readings of the manuscript and printed witnesses. In the present edition, I have employed various means--philological analysis, proximity of readings to royal scriptorium exemplars, weight of manuscript evidence, etc.--to determine an accurate text. Justifications for debatable readings are included. I have also proposed tentative family groupings of the 15 extant witnesses of title xxiv.

The method described below of indicating family relationships is designed to determine coincident omission; i.e., the amount of disagreement between two manuscripts. A very small number of disagreements would presumably be indicative of a close genetic relationship, while a large percentage of disagreements would denote little relationship between any two given manuscripts and, ultimately, between manuscript families.

The first step in the process is to isolate significant variants. For our purposes, significant variants will include, primarily, word order, omissions, and verb tense and number differences. On the other hand, merely linguistic variants will not generally be considered significant (e.g., fizieron vs ficieron), nor will archaic forms (e.g., solamientre vs solamente).

Once the variants have been determined, they are catalogued according to preferred variants (+) or secondary variants (0). Each manuscript is then designated either + or 0, according to the particular manuscript reading. Minor orthographic or linguistic variations are enclosed in parentheses.

The actual statistical tabulation of coincident omission is effected by a binary comparison of the entire manuscript corpus: E_1 vs E_2, E_1 vs E_3, E_1 vs E_4, . . .

The number of differences between two manuscripts (+ vs 0) is tabulated and then divided by the total number of significant variants, thus yielding the percentage of similarity and dissimilarity between any two manuscripts (e.g., E_1, vs E_2: 101 instances of variant difference divided by the total number of significant variants (372) = 27%). The following schema indicates the total number of calculations.

$E_1/E_2 \quad \frac{101}{372} = 27\%$ $\qquad E_1/E_3 \quad \frac{131}{372} = 35\%$ $\qquad E_1/E_4 \quad \frac{158}{372} = 42\%$

$E_1/E_5 \quad \frac{99}{372} = 27\%$ $\qquad E_1/N_1 \quad \frac{109}{372} = 29\%$ $\qquad E_1/N_2 \quad \frac{142}{372} = 38\%$

$E_1/N_3 \quad \frac{101}{372} = 27\%$ $\qquad E_1/H_1 \quad \frac{139}{372} = 37\%$ $\qquad E_1/H_2 \quad \frac{117}{372} = 31\%$

$E_1/C \quad \frac{100}{291} = 34\%$ $\qquad E_1/P \quad \frac{126}{372} = 34\%$ $\qquad E_1/M \quad \frac{213}{372} = 57\%$

$E_1/A \quad \frac{100}{372} = 27\%$ $\qquad E_1/L \quad \frac{193}{372} = 52\%$ $\qquad E_2/E_3 \quad \frac{127}{372} = 34\%$

$E_2/E_4 \quad \frac{150}{372} = 40\%$ $\qquad E_2/E_5 \quad \frac{68}{372} = 18\%$ $\qquad E_2/N_1 \quad \frac{105}{372} = 28\%$

$E_2/N_2 \quad \frac{130}{372} = 35\%$ $\qquad E_2/N_3 \quad \frac{62}{372} = 17\%$ $\qquad E_2/H_1 \quad \frac{141}{372} = 38\%$

$E_2/H_2 \quad \frac{93}{372} = 25\%$ $\qquad E_2/C \quad \frac{93}{291} = 32\%$ $\qquad E_2/P \quad \frac{100}{372} = 27\%$

$E_2/M \quad \frac{197}{372} = 53\%$ $\qquad E_2/A \quad \frac{75}{372} = 20\%$ $\qquad E_2/L \quad \frac{175}{372} = 47\%$

$E_3/E_4 \quad \frac{154}{372} = 41\%$ $\qquad E_3/E_5 \quad \frac{104}{372} = 28\%$ $\qquad E_3/N_1 \quad \frac{109}{372} = 29\%$

$E_3/N_2 \quad \frac{139}{372} = 37\%$ $\quad E_3/N_3 \quad \frac{108}{372} = 29\%$ $\quad E_3/H_1 \quad \frac{143}{372} = 38\%$

$E_3/H_2 \quad \frac{122}{372} = 33\%$ $\quad E_3/C \quad \frac{73}{291} = 25\%$ $\quad E_3/P \quad \frac{128}{372} = 34\%$

$E_3/M \quad \frac{215}{372} = 58\%$ $\quad E_3/A \quad \frac{101}{372} = 27\%$ $\quad E_3/L \quad \frac{206}{372} = 55\%$

$E_4/E_5 \quad \frac{136}{372} = 37\%$ $\quad E_4/N_1 \quad \frac{149}{372} = 40\%$ $\quad E_4/N_2 \quad \frac{97}{372} = 26\%$

$E_4/N_3 \quad \frac{136}{372} = 37\%$ $\quad E_4/H_1 \quad \frac{161}{372} = 43\%$ $\quad E_4/H_2 \quad \frac{157}{372} = 42\%$

$E_4/C \quad \frac{126}{291} = 43\%$ $\quad E_4/P \quad \frac{167}{372} = 45\%$ $\quad E_4/M \quad \frac{199}{372} = 53\%$

$E_4/A \quad \frac{138}{372} = 37\%$ $\quad E_4/L \quad \frac{207}{372} = 56\%$ $\quad E_5/N_1 \quad \frac{89}{372} = 24\%$

$E_5/N_2 \quad \frac{115}{372} = 31\%$ $\quad E_5/N_3 \quad \frac{43}{372} = 12\%$ $\quad E_5/H_1 \quad \frac{133}{372} = 36\%$

$E_5/H_2 \quad \frac{87}{372} = 23\%$ $\quad E_5/C \quad \frac{64}{291} = 22\%$ $\quad E_5/P \quad \frac{73}{372} = 20\%$

$E_5/M \quad \frac{182}{372} = 49\%$ $\quad E_5/A \quad \frac{61}{372} = 16\%$ $\quad E_5/L \quad \frac{156}{372} = 42\%$

$N_1/N_2 \quad \frac{148}{372} = 40\%$

$N_1/N_3 \quad \frac{96}{372} = 26\%$

$N_1/H_1 \quad \frac{139}{372} = 37\%$

$N_1/H_2 \quad \frac{63}{372} = 17\%$

$N_1/C \quad \frac{91}{291} = 31\%$

$N_1/P \quad \frac{111}{372} = 30\%$

$N_1/M \quad \frac{206}{372} = 55\%$

$N_1/A \quad \frac{62}{372} = 17\%$

$N_1/L \quad \frac{186}{372} = 50\%$

$N_2/N_3 \quad \frac{107}{372} = 29\%$

$N_2/H_1 \quad \frac{165}{372} = 44\%$

$N_2/H_2 \quad \frac{124}{372} = 33\%$

$N_2/C \quad \frac{109}{291} = 37\%$

$N_2/P \quad \frac{147}{372} = 40\%$

$N_2/M \quad \frac{217}{372} = 58\%$

$N_2/A \quad \frac{116}{372} = 31\%$

$N_2/L \quad \frac{200}{372} = 54\%$

$N_3/H_1 \quad \frac{161}{372} = 43\%$

$N_3/H_2 \quad \frac{92}{372} = 25\%$

$N_3/C \quad \frac{77}{291} = 26\%$

$N_3/P \quad \frac{94}{372} = 25\%$

$N_3/M \quad \frac{194}{372} = 52\%$

$N_3/A \quad \frac{70}{372} = 19\%$

$N_3/L \quad \frac{173}{372} = 47\%$

$H_1/H_2 \quad \frac{145}{372} = 39\%$

$H_1/C \quad \frac{114}{291} = 39\%$

$H_1/P \quad \frac{138}{372} = 37\%$

$H_1/M \quad \frac{203}{372} = 55\%$

$H_1/A \quad \frac{128}{372} = 34\%$

$H_1/L \quad \frac{193}{372} = 52\%$

H_2/C $\frac{82}{291} = 28\%$

H_2/P $\frac{112}{372} = 30\%$

H_2/M $\frac{212}{372} = 57\%$

H_2/A $\frac{67}{372} = 18\%$

H_2/L $\frac{187}{372} = 50\%$

C/P $\frac{101}{291} = 34\%$

C/M $\frac{164}{291} = 56\%$

C/A $\frac{79}{291} = 27\%$

C/L $\frac{151}{291} = 52\%$

P/M $\frac{229}{372} = 62\%$

P/A $\frac{95}{372} = 26\%$

P/L $\frac{207}{372} = 56\%$

M/A $\frac{198}{372} = 53\%$

M/L $\frac{50}{372} = 13\%$

A/L $\frac{172}{372} = 46\%$

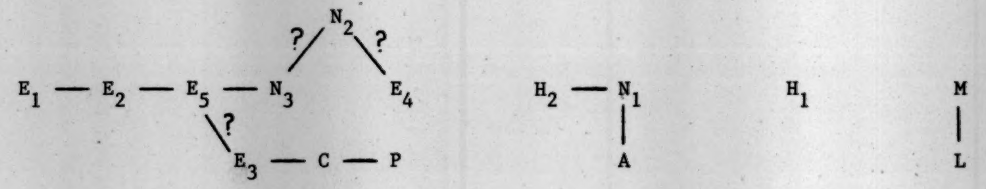
The classificatory system described above, when applied to title xxiv, did not yield entirely satisfactory results. As even a cursory glance at the listing of percentages reveals, the major portion of the tabulation indicates a coincident omission of between 25% and 50%. Indeed, the lowest percentage is 12% (MSS E_5 vs N_3), certainly not a conclusive relationship between the two MSS, though highly suggestive. The most striking divergence between witnesses is P vs M, 62%.

The most significant factor in this "leveling" of coincident omissions is manuscript contamination. It appears that in the copying of the Siete Partidas, the copyist used a variety of manuscripts, perhaps in an attempt to eliminate unsatisfactory readings. With each consecutive copy deriving from multiple manuscript readings, it is not difficult to see how in a short time the relationship among the various manuscripts would become almost hopelessly blurred. Consequently, at present, only certain tentative relationships may be established.

The question may understandably arise concerning the advisability of attempting a critical edition without first having determined a precise stemmatic relationship of the manuscripts at hand. In spite of the fact that the witnesses of title xxiv are considerably contaminated, the majority of manuscript divergences can be easily reconciled. When lacunae occur, it is possible to supply the omitted portion with readings from the other witnesses. As far as linguistic and archaic variants are concerned, a perusal of other Alphonsine texts is generally sufficient to resolve textual difficulties.

Variant selections which require explanation or justification are noted below. The first entry indicates the preferred reading. It should be noted that C and P are either fragmentary or possess numerous incorrect readings. M frequently differs from the manuscript witnesses, and L usually follows M. As a result of contamination, it is generally impossible to determine a preferred reading solely on the basis of manuscript relationships. Other criteria--weight of manuscript evidence, linguistic factors, internal cohesiveness, and common sense--are employed.

TENTATIVE FAMILY RELATIONSHIPS


N₂
?
?
E₁
E₂
E₅
N₃
E₄
?
E₃
C
P
H₂
N₁
A
H₁
M
L

Variant Explanations:

7.24.0

2 omnes *vs* gente: weight of MS evidence; agreement in number of "omnes" with "beviessen" (line 4).

3 fee *vs* fee catolica: "fee catolica" never appears in subsequent laws, and "fee" is later followed by "de Nuestro Señor Jhesu Christo" (7.24.6; line 8).

9 queremos aqui *vs* queremos agora aqui: "queremos agora aqui" would constitute an unlikely redundancy.

14 dexaron *vs* dexan: "dexaron" concords better with the historical quality of the narrative; "dexaron" agrees with "visquieren."

15 ellos *vs* los cristianos: "los cristianos" would be an unlikely redundancy, since it was just stated in line 13.

17 fechos *vs* fecho: agreement in number with preceding noun.

19 que se torna *vs* pora tornarse: "que se torna" is the form used in the heading to 7.24.6; "pora tornarse" conveys the idea of incentive which, though certainly not absent, is here subordinated to an essentially declarative enumeration of the topics to be dealt with in title xxiv.

22 tornaren *vs* tornan: "tornaren" agrees better with the text in 7.24.10; line 12.

7.24.1

5 circuncida *vs* circuncidan: "circuncida" agrees in number with "judío" in line 4.

faze *vs* fazen: "faze" agrees with "judío" in line 4.

6 del *vs* de: definite article often appears before noun (e.g., "del linaje" [line 14]).

7.24.2

4 esto *vs* ello(-s): the punishment is meted out to those guilty of breaking the aforementioned law, referred to as "esto", while "ello", "ellos", or "ellas" refers either to "cristianos" or "cosas", neither of which is in itself the object of the law.

11 oymos *vs* oyemos: the temporal context of the law, as well as the subsequent use of the present tense ("fizieron e fazen" [line 12]), argue for the present tense "oymos", rather than the preterite "oyemos".

14 en cruz *vs* en la cruz: the former is preferred, since no specific cross is intended.

o *vs* e: "o" is preferred, since alternate activities are noted: either crucifixion of children *or* crucifixion of waxen images.

7.24.3

7 aviltada (-b-) vs aviltadamientre (-mente): the latter form is the result of an erroneous reading of "muerte", or perhaps reflects 7.24.2; line 20: "aviltadamientre".

12 sacerdote vs sacerdotes: former reading preferred in order to continue generic singular ("rey nin sacerdote").

16 los vs om.: "los previllegios" should parallel "las onrras" (line 15).

17 podiesse (-u-; -s-) vs podiessen (-u-; -s-): "podiesse" agrees in number with "judío" (line 16).

7.24.4

1 aver vs fazer: statute deals with more concerns than simply constructing ("fazer") synagogues; therefore "aver" is the more comprehensive word, and is to be preferred.

3 casa (-ss-) vs cosa: reference is to a house of prayer (cf. lines 11-12: "sinagoga es casa ō se loa el nombre de Dios").

7 o vs e: Jews may either repair or rebuild their synagogue if its collapse was due to age.

8 enlargando vs embargando: "enlargando" agrees with the original civil and canonical prescripts regarding enlarging the synagogue.

19 faziendo *vs* faziendo su: latter reading would constitute unlikely redundancy, given the remainder of the phrase: "faziendo (su) oración segund su ley".

7.24.5

1 a *vs* *om*.: "apremiar *a* los judíos" necessary for correct meaning.

10 faga *vs* fagan: "faga" agrees in number with "ningund judgador" (lines 7-8).

11 abondan *vs* abonda: "abondan" agrees in number with "los otros días".

19 lo *vs* los: "lo" agrees in number with "judío" (line 16).

21 libradas *vs* librados: "libradas" agrees in gender with "demandas" (line 20), and "determinadas" (line 21).

24 defendemos que *vs* *om*.: "defendemos que" necessary for parallel construction: "E bien assí como defendemos que. . . otrossí dezimos que. . ." (line 26).

27 personeros *vs* personas: "personeros" is the precise legal term; "personas" is too general, and thus does not convey the sense of legal representative.

32 demándegela *vs* demandegelo: "demándegela" agrees in gender with "querella" (line 31).

34 doblada *vs* doblado: "doblada" agrees in gender with "cosa".

7.24.6

6 con vs por: "con" follows more closely the wording of the canonical prescript (see Commentary to 7.24.6).

13 lo vs los vs om.: "lo" refers, correctly, to "judío" and "gelo" (lines 10, 11, respectively).

ol vs o los vs o: "ol" likewise refers to "judío" and "gelo" of lines 10-11.

16 consejadores (acon-) vs consentidores: "consejadores" is to be preferred, since merely consenting ("consentidores") to the Jew's death is less culpable than abetting the "matadores" (line 15).

21 entendieren vs entendiere: "entendieren" agrees in number with "los judgadores" (line 18).

merescen (-c-) vs meresce (-c-) vs uencen: "merescen" agrees in number with "los feridores" and "los fazedores" (line 19).

26 ayan vs aya: "ayan" agrees in number with "judíos" (lines 23, 25), and ellos (line 24).

29 an vs an todos: "an todos" probably the result of "todos" in preceding line (28), though it could be argued that Alfonso wants to emphasize that converts to Christianity are to be treated like all other Christians (cf. line 23: "todos los de nuestro señorío").

7.24.7

1 tornare vs torna vs tornan: "tornare" preferred, since a similar form ("tornasse") is used in same context in line 2 ("algund cristiano que se tornasse judío").

7.24.8

6 guiarlos vs guardarlos (-les): the basic idea here is that Christians may escort Jews on trips to unknown regions. Weight of MS evidence, as well as the inclusion of "logar dubdoso", argue for "guiarlos", though protection is inherent in the statute.

9 beva vs bevan: singular form required because of "cristiano nin cristiana" (line 7).

13 puede vs pueden: "puede" required because of singular antecedent: "ningund cristiano non resciba" (line 12).

14 fecha vs fecho: "fecha" agrees in number with "purga" (line 12), and "la" (line 13).

7.24.9

6 la vs lo: "la" preferred, since it refers directly to "muerte" in the same line.

13 dixiemos vs diremos: preterite required because of "postrimera" in same line.

7.24.10

10 nin *vs* o: "nin" preferred, since it follows the negation established by "non" in same line.

11 o moras *vs* *om*.: inclusion of "o moras" preferred to maintain parallelism with "cativo nin su cativa" (lines 10-11).

13 luego *vs* *om*.: "luego" included here because of unequivocal use in like phrase: "deven seer luego libres por ende" (lines 15-16).

7.24.11

3 acaescen *vs* acaesce: "acaescen" necessary because of plural subject: "Muchos yerros e cosas desaguisadas".

4 las judías *vs* los judios; los judíos *vs* las judias: in the text, "cristianos" should go with "judías" and "cristianas" with "judíos", since the concern of the law is with illicit relations between Christian males and Jewish women, and, more important, Christian women and Jewish males.

14 ello *vs* ella *vs* ellos: "ello" refers to the crime of not wearing the distinguishing mark, while "ella" refers merely to the word "señal"; "ello" is therefore to be preferred.

Editorial Criteria

1. Punctuation has been supplied in accordance with modern usage.

2. The various forms and abbreviations of "Cristo" and "Jesucristo" are rendered as *Cristo* and *Jhesu Christo*, respectively.

3. *ñ* represents scribal -*nn*-; other orthographic modernizations include the use of accents and capital letters according to accepted modern practice.

4. Abbreviations have been resolved according to the predominant form of a given MS. *m* is written before *p* and *b*, as in *siempre* and *embio*. In the apparatus, the variants appear in paleographic transcription.

5. The cedilla of *ç* is omitted before *e* and *i* in the edition, but it is noted in the apparatus, except when it constitutes the only difference with regard to the base form.

6. In the apparatus, *ss*-, *ff*-, -*ff*-, as well as *R*- and *rr*-, are indicated, except when these strictly orthographic features constitute the sole difference with regard to the base form. In the edition, these forms are rendered *s*-, *f*-, -*f*-, and *r*-.

7. Graphic variants of letters (e.g., long *vs* short *vs* sigmatic *s*) have been ignored. In the edition, *u* and *v* are rendered according to their phonetic value, as are *i* and *j*. However, in the apparatus, *u* and *v* are transcribed as they appear in the MSS, as are *i* and long *i* = *j*, unless they constitute the sole difference with regard to the base form. *v* and *b* are, of course, always distinguished and indicated in the apparatus. *y* is normally transcribed as *i*.

8. *et* vs *e* vs *ƶ* are not differentiated in the apparatus, except as they appear within a variant phrase. In such instances *et* and *ƶ* are reproduced as *e*.

9. The distinction between *como* and *commo* is not indicated.

10. *omes* vs *omnes*, and other such forms, are indicated in the apparatus according to the predominant form in a given MS.

11. Contracted forms, such as *antel*, *daquel*, *dellos*, etc., are retained. Combinations of words are treated according to modern usage (e.g., *por que* vs *porque*). Certain forms, such as *delo*, *dela*, *en̄l*, are separated to conform to modern usage.

12. Forms of *haber* are indicated without an initial *h*, except in the case of *ha*, so as to distinguish it from the preposition *a*.

13. In general, only phonologically significant variants are included in the apparatus. On occasion, however, orthographic variants are noted if they possess particular interest.

14. Since A is based almost exclusively on MS N_1, only in those cases where A diverges from N_1 are variants indicated.

15. The textual referent being considered--either a word or a phrase--is set off in the apparatus by a single bracket =].

16. om. = omitted.

17. ≠ = letter crossed out in MS.

18. [.] = illegible.

Critical Edition 7.24.0

Título xxiiij "De los judios"

Judíos son una manera de omnes que como quier que non creen la fee de Nuestro Señor Jhesu Christo, peró los grandes señores de los cristianos siempre sofrieron que beviessen entre ellos. Onde pues que en el título ante deste fablamos de los adevinos e de los otros omnes que tienen que saben las cosas que an de venir, que es como manera de despreciamiento de Dios, queriéndose egualar con él en saber los sus fechos e las sus poridades, queremos aquí dezir de los judíos que contradizen e denuestan el su fecho maravilloso e santo que él fizo quando embió el su fijo Nuestro Señor Jhesu Christo en el mundo pora salvar los pecadores. E mostraremos qué quiere dezir judío e ónde tomó este nombre e por qué razón la eglesia e los grandes señores cristianos los dexaron bevir entre sí; e en qué manera deven fazer su vida mientre visquieren entre ellos e quáles cosas non deven usar nin fazer segund nuestra ley; e quáles son aquellos juezes que los pueden apremiar por maleficios que ayan fechos o por debdo que devan; e cómo non deven seer apremiados los judíos que se tornen cristianos; e qué mejoría ha el judío que se torna cristiano de los otros que se non tornan, e qué pena merescen los que les fiziessen daño o desonrra por ello; e qué pena deven aver los cristianos que se tornaren judíos e los judíos que fizieren a los moros que fuessen sus siervos tornar a su ley.

Critical Apparatus 7.24.0

1 heading om. P; judios + xij les C.

2 manera] natura M; omnes] omes E_1, E_2, E_3, E_5, N_1, N_3, H_2, C, gente E_4, N_2, H_1, M, L; que_1 om. P; non] no M; creen + en H_1, C, P.

3 fee] fe E_1, E_2, E_4, E_5, N_1, N_3, H_1, H_2, P, M, L; + catolica E_4, N_1, N_2, H_1; Nuestro Señor Jhesu Christo] ihesu christo nuestro sennor E_3; Señor] seynnor N_3; pero] por E_3, om. H_1; señores] seynnores N_3, senores P.

4 sofrieron] sufrieron E_3, E_5, N_1, N_2, H_2, M, L, ssouffrieron C; beviessen] biujesen E_3, N_1, biuiessen N_3, H_2, M, L, viujesen E_4, veviessen E_1, E_2, C, uisquiesen E_5, vissquiesen P, visquiessen H_1, vessquiessen N_2; entre ellos] entrellos E_1, E_3, E_5, N_2, H_1, C, P; entre om. N_3; ellos] eyllos N_3.

5 onde] ende E_3, E_4; que om. E_1; ante . . . tienen 5/6 om. P; fablamos] ffablemos E_1, ffal[#]amos C; adevinos] adeujonnos (?) E_1.

6 omnes] omes E_1, E_2, E_3, E_4, N_1, N_2, N_3, H_1, H_2, C, L, onbres M; tienen] dizen M, L; cosas] cossas E_1; de_2 om. P.

7 que es om. M; como + en E_1, E_2, N_3, H_1, M, L; como om. P; manera de om. C; de_1 om. E_5; despreciamiento] menospreçiamiento

M, L; + de la ley H_1; queriéndose] queriendosse H_1, querriendosse C, queriendo E_1.

8 egualar] egular P, ygualar E_1, E_3, N_2, L, eguoalar N_3; él] eyll N_3; en saber] sobre E_4, N_2; sus_1 *om.* P; sus_2 *om.* E_1; poridades] puridades H_2, A; + *e* E_3.

9 queremos + agora E_2, E_5, N_1 [*in marg.*], N_3, P, A; aquí dezir] dezir aqui E_5, N_3, H_2; contradizen] contradiçen E_5; e] y M; denuestan] demuestran E_3, [illegible].

10 su_1] so E_2, E_5, *om.* E_1; + nonbre *e* El su E_4, + nonbre santo *e* el su N_2, + nonbre *e* el ssu ssanto H_1, + nombre y el su M, + nome e el su L; fecho + tan N_3, + muy P; maravilloso e santo *om.* H_1; maravilloso e *om.* E_4, M; maravilloso] malaujlloso E_3; e] o E_3; + muy P; que él fizo *om.* H_1; que él] quel E_3; él] ell N_3; fizo] fiço E_5; quando + el M, L; embió] enuio E_5; + a E_2, A.

11 Nuestro Señor *om.* E_1; Señor] seynnor N_3, ssenor C; Christo + para H_1; en el mundo *om.* P; por] para E_1, E_3, N_1, H_1, H_2, C, P, M, L; salvar los pecadores] los pecadores saluar E_4, N_2, M, L, H_1 (pecc-); salvar + a P; pecadores] peccadores E_2, E_5, N_3, H_2, P.

12 mostraremos] demostraremos M; qué + cosa M; quiere] quier E_1, E_2, E_5, P; e_1 + de quantas maneras son dellos N_2; ónde tomó este nombre] quantas maneras son dellos E_4, N_1 (~~quantas maneras son dellos~~ [*erased and line drawn through still visible words*]); ónde] donde N_2, P, M, L; tomó + en P; nombre] nome L; + *e* quantas maneras son dellos M.

13 razón] raç*on*, razones E_4, M, L; la eglesia e los grandes señores] los grandes senores *e* la ygl*es*ia de los P; la eglesia *om*. C; la + ss*an*ta E_1; eglesia] ygl*es*ia E_1, E_3, N_2, P, M; señores + de los E_4, N_2, M, N_1 (~~de los~~ [*erased and line drawn through still visible words*]); los$_2$] lo E_4.

14 dexaron] dexan H_1, P, M, L; bevir] ueuir E_2, viujr E_1, C, P, biuir H_2, L, uenir E_5, N_3, *om*. E_4, M; entre] anti E_5; fazer] facer E_5; mientre] mjentra E_3, N_2, mjentren P; + que E_3, N_1; mientre *om*. E_4, H_1, M, L.

15 visquieren] bjujeren N_2, veujeren C, yog*uier*e*n* E_1, *om*. E_4, H_1, M, L; entre ellos] entrellos C, P; ellos] los E_5, los cristianos E_4, H_1, M, L, N_1 [*corr*. "ellos"]; e + por H_1; quáles] quoales N_3, *que* las E_2; cosas] cossas E_1; non] no E_5, M, *om*. E_4; deven] deban A; usar] vsuar P; usar nin fazer] ffazer ni*n* hussar E_1, faz*er* et vsar E_4, fazer ni*n* vsar ~~entre ellos~~ (?) [*last two words partially erased*] N_1; nin] ni E_5, M; fazer] façer E_5.

16 segund] segunt E_1, E_2, N_1, N_3, H_1, P, segu*n*do E_5; ley] lley C; + lo manda M; quáles] quoales N_3; aquellos] aquellas [*corr*. "aquellas"] E_5; juezes] juyçes E_5; pueden] deue*n* E_4.

17 por$_1$ + los E_1, E_2; maleficios] maliffiçios E_1, P (-f-); que ayan fechos *om*. E_3; fechos] fecho E_2, E_5, N_2, N_3, M, L; o] Et H_1; debdo] debda E_1, E_3, E_4, H_1; devan] deuen M, deben A, deue E_4.

18 non] no M; seer] ser E_3, E_4, N_2, M, L; los judíos *om*. N_2; judíos] juydios E_4, E_5; tornen] tornan E_2, H_1.

19 que se torna] por tornarsse E_1, pora tornarse E_2, E_5, N_3, por tornarse E_4, H_2, L, para tornarsse N_2, C, para tornarse M, para tornase P, por se tornar N_1, en tornarsse H_1; cristiano + demas N_2; de] que P; otros + judios M, L.

20 non om. (?) C; merescen] mereçen E_5, H_1; los] aquellos E_2; les] los P, le L; fiziessen] ffeziessen E_1, C, fiziesen N_1, feciesen E_5, fezjeren P, fizieren E_3, M, L, fazen N_2; daño] dapno E_1, E_3, P, daynno N_3; q] Et E_3.

21 desonrra] dessonrra E_1, N_2, C; por ello om. M, L; deven aver] mereçen H_1; que] sy P.

22 tornaren] tornan E_1, E_3, E_4, E_5, N_2, C, M, L, tornase P; e + a C; que$_1$ + se E_4; fizieren] ffezieren E_1, fezjeren P, ffeziessen C, fiçieren E_5; los moros] las moras E_1; fuessen] fuesen E_3, E_4, E_5, N_1, P, M, fueren E_2; + a P.

23 sus] sy E_4; siervos] ssieruas E_1; tornar] tornarse N_1, tornan P, que sse tornen E_1; a su ley] judios N_1; ley] lley C.

Critical Edition 7.24.1

Ley i "Qué quiere dezir judío e ónde tomó este nombre e por qué razones la eglesia e los grandes señores cristianos los dexaron bevir entre sí"

Judío es dicho aquél que cree e tiene la ley de Moysén segund suena la letra della e que se circuncida e faze las otras cosas que manda essa su ley. E tomó este nombre del tribu de Judá que fue más noble e más esforçado que todos los otros tribus. E demás avié otra mejoría, que daquel tribu avién a esleer rey de los judíos. E otrossí en las batallas los daquel tribu ovieron siempre las primeras feridas. E la razón por qué la eglesia e los emperadores e los reyes e los otros príncipes sofrieron a los judíos bevir entre los cristianos es ésta: por que ellos beviessen como en cativerio pora siempre e fuesse remembrança a los omnes que ellos vienen del linaje daquellos que crucificaron a Nuestro Señor Jhesu Christo.

Critical Apparatus 7.24.1

1 *heading* *om*. P; Ley] lley C; i] p*ri*m*er*a E_4, N_3, H_1; quiere] q*ui*er E_1, E_4, E_5, C; ónde] donde E_2, de donde M, L, ovo E_3; tomó] to*m*mo E_4, H_2; nombre] nome L; + de judio M, L; e_2 . . . sí 1/3 *om*. H_1, M, L.

2 razones] razo*n* E_3, C; eglesia] yglesia N_2, C; señores] seynnores N_3; dexaron] dexan H_2, C, leyxaro*n* E_2.

3 bevir] biuir H_2, ueuir E_5, C, ue*n*ir N_3; sí + siempre E_2.

4 dicho *om*. C; aquél] aq*ue*ll N_3; cree e tiene] tiene *e* cree C; cree] c*re*ye H_1; + en H_1; e] q*ue* E_4; ley] lley C; Moysén] moyssen E_1, P; segund] segun L, segunt E_1, E_2, N_1, N_3, H_1, segundo E_5; + que N_1, H_2; suena] suen*n*a E_3, N_1, C, ensen*n*a E_4.

5 la + su N_3; letra] lat[. . .] E_5, latra P; della] dellos E_4, H_1, M; se] es E_1, *om*. E_4; circuncida] circumcida H_2, curuncida E_2, çircuncidan E_3, N_1, H_1, M, çircuçidan P, çircu*n*dase*n* (?) E_4, c*ir*cu*n*çiado E_1; faze] façe E_5, fazen E_3, E_4, N_1, H_1, M, C; + todas M; las *om*. P; cosas] cossas E_1, *om*. N_3; manda] mando E_4.

6 essa] esa N_1, esta H_1, *om*. E_3, E_4, C, P, M, L; ley] lley C; tomó] tom*m*o H_2, com*m*o M; nombre del *om*. M; nombre] nome L; del] de E_2, E_5, N_1, N_2, H_1, H_2, P; tribu] tribo P, truba N_2; de *om*. E_5, N_2, H_2, P; Judá] judas E_3; fue] fu P; más] muy N_2, mays C; noble] no*n*bre P.

7 más *om.* E_4; esforçado] esforcado E_3, esforçiado E_1; que] de E_2, E_4, E_5, N_2, N_3, H_2, P; todos *om.* M, L; otros] demas A, *om.* E_4, H_1; tribus] tributos E_3, P; demás + *que* N_2; avié] auia H_2, C, P, M, L, aujen N_2; otra] esta H_1.

8 que *om.* P; daquel] de aquel E_1, E_3, E_4, N_2, H_2, C, P, M, L, daq*ue*ll N_3; tribu . . . daquel 8/9 *om.* E_4, H_2; tribu] tibu E_5; avién] avian E_3, C, P, M, L; a] de E_2, M, L; esleer] esleyr E_3, C, elegir N_2, M; + al E_1; rey] ley H_1; los] lo P; judíos + que M; E . . . los 8/9 *om.* M; E *om.* N_2, C.

9 otrossí] otrosi E_3, E_5, N_1, N_2, P, L; en las batallas los daquel tribu] los de aquel tribu en las batallas E_3, C, L; daquel] de aquel E_1, N_1, N_2, H_1, P, M, daq*ue*ll N_3; ovieron] aujero*n* C.

10 E_1 *om.* M; razón] raço*n* E_5; la eglesia e *om.* H_1; eglesia] yglesia E_3, N_2, C, P, M; e los + e los E_3.

11 e los reyes *om.* E_3; e_1 *om.* P; reyes] reys E_4, E_5, P; los_2] elos C; otros *om.* E_4, H_1, M, L; sofrieron] sufrieron E_3, E_4, N_1, N_2, N_3, H_1, H_2, C, P, M, L; judíos + a E_2, + que M, L; bevir] ueuir E_1, E_2, C, biuir H_2, uiuir E_5, biuiesen M, L (-ss-), uenir N_3.

12 entre + si e entre L, + si y entre M, + sy *e* E_4; los] ellos E_2; que *om.* M; beviessen] biuiessen N_2, H_1, H_2, L, bjujesen N_1, uiuiessen E_2, N_3, viuiesen E_4, E_5, veujessen E_1, C, oviesen E_3, meterse M; como *om.* M; en *om.* E_3.

13 cativerio] catiuero E_3, catiuierio E_5; pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, C, P, M, L; + en H_1; e] porque L; fuesse] fuese E_1, E_3, E_4, E_5, N_1, P, fuessen L; + siempre en L; remembrança] remenbrancia E_5, C, rrenenbrançia E_1, Remenbraçon (?) P; a] de E_3; omnes] omes E_1, E_2, E_3, E_4, E_5, N_1, N_2, N_3, H_1, H_2, C, L, onbres M.

14 vienen] venien E_1, E_2, N_3, C, P, venian M, L, uinien E_5; del linaje om. E_3; del] de E_2, E_4, P; linaje] llinage C, lignaje P; daquellos] de aquellos E_1, E_2, E_3, E_4, N_1, N_2, H_1, H_2, P, daquelos E_5, de los M, L; crucificaron] crucifigaron E_5, H_2; a] al E_4; Señor] seynnor N_3; + dios E_3.

15 Jhesu Christo] dios E_4, M.

Critical Edition 7.24.2

Ley ij "En qué manera deven fazer su vida los judíos mientre bevieren entre los cristianos e quáles cosas non deven usar nin fazer segund nuestra ley e qué pena merescen los que contra esto fizieren"

Mansamientre e sin mal bollicio deven fazer vida los judíos entre los cristianos, guardando su ley e non deziendo mal de la fee de Nuestro Señor Jhesu Christo que guardan los cristianos. Otrossí se deven mucho guardar de non predicar nin convertir a ningund cristiano que se torne judío alabando su ley e denostando la nuestra. E qualquier que contra esto fiziere deve morir por ende e perder lo que ha. E porque oymos dezir que en algunos logares los judíos fizieron e fazen el día del viernes santo remembrança de la passión de Nuestro Señor Jhesu Christo en manera de escarnio, furtando los niños e poniéndolos en cruz o faziendo ymágenes de cera e crucificándolas quando los niños non pueden aver, mandamos que si fama fuere daquí adelante que en algund logar de nuestro señorío tal cosa sea ý fecha, si se podiere averiguar, que todos aquéllos que se acertaren en aquel fecho que sean presos e recabdados e aduchos antel rey, e después que él sopiere la verdad, deve los mandar matar aviltadamientre quantos quier que sean. Otrossí defendemos que el día del viernes santo ningund judío non sea osado de salir de su barrio, mas que estén ý encerrados fasta el sábado en la mañana. E si contra esto fizieren, dezimos que del daño e de la desonrra que de los cristianos rescebiessen, entonce non deven aver ninguna emienda.

Critical Apparatus 7.24.2

1 *heading om.* P; i] segunda M; fazer su vida los judíos] los judios fazer su vida N_1; fazer] façer E_5, mantener E_4, N_2; su vida los judíos] los judios su uida E_5; los judíos *om.* H_2.

2 mientre bevieren entre los cristianos] entre los c*risti*anos mientra vysquieren [*remainder of heading om.*] H_1; mientre] mientra N_1, N_2, H_2, *om.* M, L; bevieren] ueujere*n* C, biuieren E_3, H_2, vivieren E_1, E_4, visquieren E_2, E_5, N_1, N_3, *om.* M, L; e + de E_4; non] no M.

3 usar] vuscar E_1; nin] ni E_5, M; fazer] façer E_5; segund] segunt E_1, N_1, N_3, C, segu*n*do E_5; merescen] merecen E_2, N_3, C.

4 esto] ello E_4, N_2, N_3, L, ellos E_2, E_3, M, ellas C; fizieren] feziere*n* C, ficiere E_5, fueren E_1, N_1.

5 Mansamientre] man[+]samientre E_2, manssamientre E_1, N_3, H_1, mansamjente P, manssamjent*e* C, mansamente E_3, E_4, N_1, H_2, M, L, manssame*n*te N_2; mal bollicio] bollicio malo N_1, H_2; mal *om.* H_1; bollicio] bolliscio N_3, boliçio E_1, bolliço E_5; deven + beujr *e* N_1; fazer] façer E_5; + la C; vida *om.* H_1.

6 guardando] guoarda*n*do N_3; ley] lley C; e *om.* P; non] no M; deziendo] diziendo N_1, N_3, H_1, H_2, M, L, diçiendo E_5, [. .]zjendo E_4; la + ley nj*n* d*e* la E_4; fee] fe E_2, E_5, N_1, N_3, H_1, H_2, P, M, L; de] d*e*l E_4.

7 Nuestro Señor Jhesu Christo] ihesu cristo nuestro sennor E_2; Señor] seynnor N_3; guardan] guoardan N_3; cristianos] cristiauos M; + Et E_3, H_1; otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L.

8 se deven] deuense H_2, deuensse E_1; se *om.* E_2, P; mucho *om.* C; guardar] guoardar N_3; non *om.* M, L; nin] ni M; + de E_3, H_1; convertir] conuertir (?) P, conuerter E_1, conuirter (?) E_3; a *om.* E_1, M, L; ningund] ningun E_1, E_2, N_3, H_1, H_2, C, ningunt E_3, N_1; nengun E_5, njguno P, algund E_4.

9 torne + cristiano P; judío + o E_2; ley] lley C; e denostando la nuestra *om.* P; denostando] denostar H_1, demostrando E_3, destruyendo E_1; la nuestra *om.* E_4.

10 E + a P; qualquier] quoalquiere N_3; contra *om.* H_1, C; fiziere] fezjere P, feziesse E_1, C, fiziesse N_2, N_3, fizjese E_4, ficiese E_5, fezies E_2.

11 oymos] oyemos E_2, N_1, N_3, H_1, H_2, P; dezir] deçir E_5; en *om.* E_5; logares] lugares E_1, E_4, N_1, N_2, P, M, L, llugares C.

12 los judíos *om.* E_1; fizieron e *om.* E_5; fizieron] fezieron E_1, C, fazjan N_2, fazen P; fazen] facen E_5; + en P; del] de E_1; santo] sancto E_1, E_2, E_3, E_4, E_5, N_1, N_3, H_1, H_2, C; remembrança] remembranca H_2, E_3 (-men-), remenbrancia E_5, Remenbraça H_1, rrenebrançia E_1, C.

13 passión] pasion E_3, E_4, N_1, N_2, P, muerte E_1; Nuestro Señor *om.* M; Señor] senor E_1, seynnor N_3.

14 e . . . niños 14/15 *om*. E_3; poniéndolos] ponje*n*do E_1; en + la N_1, H_2, P; o] e E_2, E_4, H_1, M, L, [. . .] E_5; faziendo] faciendo E_5; + y P; ymágenes] ymagines E_1, E_2, E_4, N_1, N_2, N_3, H_2, M, L.

15 e *om*. E_1, N_2; crucificándolas] crucifiga*n*dolas N_3; non] no M; pueden] poden E_1; aver + E N_2, P; aver *om*. E_3.

16 fama] mas E_4, H_1, M, L; fuere] fuer E_4; daquí] de aqui E_1, E_3, E_4, N_2, P, M, L; adelante] adelantre E_2, adela*nt* H_2; + ffallado H_1; que$_2$ *om*. E_4, N_2, H_1, H_2, M, L; algund] algun E_1, E_2, E_5, N_3, H_1, H_2, C, algunt E_3, N_1, aq*ue*l P; logar] lugar E_1, E_4, N_1, P, M, L, llogar C; de] del C.

17 señorío] seynnorio N_3; + q*ue* E_4, N_2; cosa] cossa E_1; sea ý] ay sea M; sea *om*. E_1, H_1, P, L; ý] assi L; + fuere P; ý *om*. E_3, N_1, H_2, M; fecha] ffeziessen E_1; se] lo P; podiere] podier E_1, E_5, pudiere E_3, E_4, N_1, N_3, H_1, M, L, podrie P; averiguar] auerigar N_3; que] por N_2, de M.

18 se + y E_1, E_4; acertaren] acertaron E_2, M, L, acaesçiessen E_1, acaesçiere*n* E_4; + y H_1, L, ay M; en aquel] enste C; aquel] aq*ue*ll N_3, tal E_2; fecho] logar E_3; presos] pressos E_1, N_2.

19 recabdados] rrecaudados E_1, Recabados H_1; aduchos] aduchas [*sic MS*] E_5, duchos M, L; antel] ante el N_2, N_3, C, P, M, L, antell H_1; después] pues E_1, E_2, E_4, E_5, N_3, H_1, P; él] ell N_3, es E_4, *om*. E_3; + rey M, L; sopiere] sopier E_4, E_5; la *om*. H_1.

20 verdad] verdat E_1, E_2, E_4, E_5, N_1, N_3, H_1, H_2, C, P; matar + muy N_1, H_2; aviltadamientre] aviltadamjente P, C, aviltadamente E_4, N_1, H_2, abiltadamente E_3, N_2, H_1, L, abilitadamente M; + ante E_3; quier] q*ui*ere H_1, *om*. P; que] y P; + y C.

21 sean] fueren P; + E N_2; Otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; defendemos] dezjmos H_1; que el] q*ue*l E_3; el día del viernes santo *om*. C; el *om*. E_4; día del *om*. H_1; santo] s*anc*t*o* E_1, E_2, E_3, E_4, E_5, N_3, H_2, *om*. N_2; + que H_2; ningund] ningun E_1, E_2, E_5, N_3, H_1, H_2, C, nj*n*gunt E_3, N_1, njguno P.

22 non] no M; osado] ossado N_2; salir] sallir N_1, N_3, H_1, M; + de su casa fuera nj*n* E_4, fuera de su casa ni M, L (nin), de ssu casa nj*n* H_1; barrio] varrio E_3, H_1; + el dia del vierne*s* s*ancto* C; que *om*. E_1, N_2, H_1, M, L; estén + en su casa E_4; ý *om*. H_1.

23 fasta el] fastal E_5, N_3; sábado] sabbado E_1, N_3, H_2, sabato M; en la] de E_3; mañana] maynnana N_3; esto *om*. P.

24 fizieren] feziessen E_2, C, fezjesen P, fiziessen N_3, H_2, fizjese*n* E_4, ficiesen E_5, fazen M, ffuessen E_1; dezimos] deçimos E_5, ma*n*damos E_3, *om*. E_2; daño] dapno E_1, E_3, P, daynno N_3, dan*n* E_5, dan*n*os [*sic* *MS*] E_4; + que los om*e*s les fizjese*n* E_4, H_1 (les [?] ffizjere*n*), M (onbres fiziessen); e] o E_2, N_1, N_3, H_2, P; de_1 *om*. E_2, C; desonrra] dessonrra E_1, desonira E_2; que de los cristianos rescebiessen, entonce *om*. H_1, M; de los cristianos *om*. E_4.

25 rescebiessen] recebiessen E_2, N_3, C, rescibiessen H_2, rresçibiese*n* N_2, resçebiesen E_1, E_3, P, recibiese*n* E_5, Resibiesen E_4, rescibieren L, reçibieren N_1; + y E_1; entonce] estonce E_2, E_5, N_1, N_3, P, *om.* E_4, L; + *que* E_1; non] no M; deven + ende E_1; aver] rescebir H_2; ninguna emienda] emienda ninguna N_1, E_1 (enm-); ninguna] ne*n*guna E_5, njguno P, *om.* E_3, N_2; emienda] enmienda E_4, N_2.

Critical Edition 7.24.3

Ley iij "Que ningund judío non puede aver oficio nin dignidad pora poder apremiar a los cristianos"

Antiguamientre los judíos fueron muy onrrados e avién muy grand previllegio sobre todas las otras gentes, ca ellos tan solamientre eran llamados pueblo de Dios. Mas porque ellos fueron desconoscientes a aquél que los avié onrrados e previllegiados, e en logar de fazerle onrra, desonrráronlo, dándol muy aviltada muerte en la cruz, guisada cosa fue e derecha que por tan grand yerro e maldad que fizieron, que perdiessen la onrra e el previllegio que avién. E por ende daquel día en adelante que crucificaron a Nuestro Señor Jhesu Christo nunca ovieron rey nin sacerdote de sí mismos assí como lo avién en ante. E los emperadores que fueron antiguamientre señores de todo el mundo tovieron por bien e por derecho que por la trayción que fizieron en matar a su señor que perdiessen por ende todas las onrras e los previllegios que avién de manera que ningund judío nunca toviesse jamás logar onrrado nin oficio público con que podiesse apremiar a ningund cristiano en ninguna manera.

Critical Apparatus 7.24.3

1 *heading om.* P; Ley] lley C; Que] commo H_1; ningund] ningun E_1, E_2, N_3, H_1, H_2, C, L, negun E_5, njngunt E_3, N_1; non] no M; aver + ningun H_2, C, + njngunt N_1; oficio] offitio N_3; nin] ni M; dignidad] dignidat E_1, E_4, E_5, N_1, N_3, H_1, H_2, C, dignedat E_2.

2 pora] para E_1, E_3, E_4, N_1, N_2, H_2 C, P, M, L; + para (?) N_2; pora poder apremiar a los cristianos *om.* H_1; a *om.* E_1, E_3.

3 Antiguamientre] antigamientre N_3, antiguamjente C, P, antiguamente E_3, E_4, N_1, N_2, H_1, H_2, M, L; muy$_1$] mucho E_2, muyt N_3, *om.* N_2; onrrados] onrados E_5; e] los judios N_2; avién] avian E_3, C, auje P, ouieron M, L; muy$_2$ *om.* N_1; grand] grant E_1, E_2, E_3, N_1, N_3, H_1.

4 previllegio] preuilegio E_1, E_5, H_2, M, preuillejo E_3, C, P, L, priuileio E_2, prjvjllejo N_1; otras *om.* E_1, E_4; ca] Qua N_3, y M; tan *om.* E_1; solamientre] solamjente C, P, solamente E_3, E_4, N_1, N_2, H_1, H_2, M, L.

5 eran] fueron E_4, H_1, M; llamados] lamados E_5; pueblo] pueblos H_1, [. . .] C; porque] por [*in marg.*] que N_1; ellos *om.* N_3; ellos + mjsmos P; fueron + pueblo de dios *e* fueron N_2.

6 desconoscientes] desconnoscientes E_2, N_3, H_1, desconoçientes P, desconnosçidos H_2, desconosçidos C, M, desconocidos L; a *om.* P; aquél + dios H_2; los] a ellos M, L; avié] avia E_3, N_2, P, M, L;

onrrados] ondrados E$_5$, C, honrrado L; previllegiados] p*re*uilegiados E$_1$, E$_4$, H$_2$, M, preujllejados E$_3$, P, p*re*uiligiados E$_5$, p*re*ujlligiados H$_1$, priuilegiados E$_2$, prjujlligiados N$_1$, preuilejado L.

7 e *om.* E$_4$, N$_2$, H$_1$, C, M; e en logar de fazerle onrra *om.* E$_3$; logar] lugar E$_1$, E$_4$, E$_5$, N$_1$, N$_2$, P, M, L; de fazerle] del ffazer H$_1$; fazerle] ffaz*er*lle E$_1$, façerle E$_5$, le fazer M, L; onrra] ondra E$_5$; desonrráronlo] dessonrraronlo N$_2$, desonrraronle E$_4$, N$_1$, dessonrraro*n*le E$_1$, desonrraro*n*lle C, desonrrandole E$_3$, H$_1$; dándol] dandole E$_3$, N$_2$, N$_3$, M, L, dandolle C; muy] muyt N$_3$, [. . .] C, *om.* H$_1$; muy aviltada muerte] muerte muy abilitadamente M, L (abilt-); aviltada] ábiltada H$_1$, auiltadamientre E$_2$, N$_3$, aviltadamente E$_3$, E$_4$, H$_2$, abiltadamente N$_2$, L, auiltada~~mjente~~ muerte (?) E$_1$, aviltada[. . .] ["muerte" *written over* "mjente" (?)] P.

8 muerte *om.* E$_1$; cruz + *e* P, M; guisada] guyssada E$_1$, gysada P; cosa] cossa E$_1$; + es *e* M; fue] es E$_2$; fue e derecha] *e* derecha ffue C; e + muy N$_2$; tan] tal P; grand] grant E$_1$, E$_2$, N$_1$, N$_3$, H$_1$, grande E$_3$, *om.* P.

9 yerro e maldad] maldat *e* yerro C; e$_1$ + tan grant H$_1$; e$_1$ *om.* P; maldad] maldat E$_1$, E$_2$, E$_4$, E$_5$, N$_1$, N$_3$, H$_1$, H$_2$, P; fizieron] fezieron E$_1$, C, P, fizioro*n* E$_5$; que$_2$ *om.* M; perdiessen] perdiesen E$_3$, E$_5$, N$_1$, P, pierdan E$_4$, H$_1$, M; onrra] ondra E$_5$; e] y M.

10 previllegio] preuilegio E$_1$, E$_4$, E$_5$, H$_2$, M, preuillejo E$_3$, C, P, L, priuileio E$_2$, p*ri*ujllejo N$_1$; que + ant*e* E$_1$; avién] avian

E_3, N_2, M, L; daquel] de aquel E_1, E_3, E_4, N_1, N_2, M, L, daq*ue*ll N_3, aq*ue*l H_1, P; en adelante *om.* H_1; adelante] delant*e* E_1, ad*e*lant E_4; + en C.

11 crucificaron] crucifigaro*n* E_5; a] al E_4, N_2; Señor] seynnor N_3; nunca] nu*n*cha E_5; ovieron] ouioro*n* E_5; rey] ffe H_1; nin] ni M.

12 sacerdote] sacerdotes E_1, P, M, L, sacerdot N_3; mismos] mjssmos E_1, mesmos M; assi] asi E_3, E_4, N_1, N_2, P; lo *om.* M, L; avién en ante] ant*e*s auje*n* E_1; avién] avian N_2, H_2, M, L; en] de E_3, N_1, *om.* E_4, N_2, H_2, C, M, A, L.

13 antiguamientre] antigamie*n*tre N_3, antiguamjente C, P, antiguamente E_3, E_4, N_1, N_2, H_1, H_2, M, L; señores] seynnores N_3; señores de todo el mundo] de todel mu*n*do ssen*n*ores H_1; de todo el mundo *om.* E_3; todo] algunas partes H_2, A ["alg*unas* p*ar*t*es* de" *included in marg. of N₁, to be inserted after* "de" *of* "de todo el mundo"]; todo el] todel E_5; el] del H_2, A; mundo] mudo E_1.

14 que$_1$ *om.* E_3; trayción] traccio*n* E_2, trayt*i*on N_3; fizieron] fezieron E_1, N_2, C, P, fiçiero*n* E_5.

15 matar a su señor] sso ssen*n*or matar C; a *om.* E_3, E_5, M; señor] seynnor N_3; perdiessen] perdiesen E_3, E_4, E_5, N_1, P, M; por ende *om.* C, P; onrras] [##]onrras [= "~~des~~onrras" (?)] P; e] y M.

16 los *om.* E_1, E_4, N_2, N_3, H_1, H_2; previllegios] preuilegios E_1, E_5, H_2, M, preuillejos E_3, C, P, L, p*ri*uileios E_2, prjvjllejos N_1; avién] auian E_2, N_2, M, L; + por end*e* P; ningund] ningun E_1,

E_2, N_3, H_1, H_2, C, L, negun E_5, njngunt E_3, N_1, njgunt P; nunca] nunqua N_3, non E_2, P.

17 toviesse] touiese E_3, E_4, E_5, N_1, P, ouiesse E_1, M, L; jamás] ya mas E_2; logar] lugar E_1, E_4, N_1, N_2, P, M, L; onrrado] ondrado E_5, om. E_4, N_2, M; nin] ni M; oficio] offitio N_3; con] en C, om. M; podiesse] pudiesse N_2, H_1, M, L, pudiese E_3, E_4, N_1, pudiessen N_3, pudiesen E_5, podiessen E_2, podiesen P.

18 ningund] ningun E_1, E_2, N_3, H_1, H_2, C, L, negun E_5, njngunt N_1, njgunt P; ninguna] njguna P, neguna E_5.

Critical Edition 7.24.4

Ley iiij "Cómo pueden aver los judíos sinagoga entre los cristianos" .

Sinagoga es logar ó los judíos fazen oración, e tal casa como ésta non pueden fazer nuevamientre en ningund logar de nuestro señorío a menos de nuestro mandado. Pero las que avién antiguamientre, si acaesciesse que se derribassen, puédenlas reparar o fazer en aquel mismo suelo assí como ante estavan, non las enlargando más nin las alçando nin las faziendo pintar. E la sinagoga que dotra guisa fuesse fecha, dévenla perder los judíos e seer de la eglesia mayor del logar ó la fizieren. E porque la sinagoga es casa ó se loa el nombre de Dios, defendemos que ningund cristiano non sea osado de la quebrantar nin de sacar ende nin de tomar ninguna cosa por fuerça, fueras ende si algund omne malfechor se acogiesse en ella; ca este atal bien lo pueden ý prender por fuerça pora levarlo delante la justicia. Otrossí defendemos que los cristianos non metan ý bestias nin posen en ellas nin fagan embargo a los judíos mientre ý estudieren faziendo oración segund su ley.

Critical Apparatus 7.24.4

1 *heading* *om*. P; Ley] lley C; + [#] E_3; iiij] quarta M; Cómo + q*ua*ndo E_2; pueden aver los judíos] los judios pueden auer E_1, E_3; pueden aver *om*. E_2; aver los judíos] los judios auer E_5, N_3; aver *om*. E_4, N_2, H_1; los judíos sinagoga] sinoga los judios N_1; judíos + fazer E_4, N_2, H_1, ayan E_2; sinagoga] sinoga E_5, H_2, M, L, signoga N_2.

3 Sinagoga] Sinoga E_2, H_2, M, L, Ysnoga E_1; logar] lugar E_4, N_1, N_2, P, L, llogar C, loguar H_1, cassa E_1, *om*. E_2, M; o] hu E_1, do N_1, H_1, M, L, de N_2, ba*n* (?) ["o*n*de" *inserted by later hand after* "lugar"] P; los] ellos H_2; judíos *om*. H_2; judíos + uan E_2, do N_2; fazen] facen E_5, fazer E_2; oración] orat*i*on N_3; casa] cassa E_1, cosa E_2, E_4, E_5, N_2, N_3, H_1, P, M, *om*. E_3.

4 non + se E_4; pueden] puede E_1, E_4; fazer] façer E_5, sseer E_1; nuevamientre] nueuamjente C, P, nueuamente E_3, E_4, N_1, N_2, H_1, H_2, M, L, nueua E_1, *om*. E_2; ningund logar] logar nj*n*gu*n*o E_3; ningund] ningun E_1, N_3, H_1, H_2, C, ningunt N_1, negu*n* E_5, njgu*n*t P, ninguna E_2; logar] lugar E_1, E_4, N_1, N_2, P, M, L, llogar C, manera E_2.

5 de$_{I}$] en E_2; señorío] seynnorio N_3; a] o E_3; Pero + sy P; las] los E_3.

6 avién] avian E_3, N_2, M, L, oujeren (?) P; antiguamientre] antigamie*n*tre N_3, antiguamjente E_1, E_5, C, P, antiguamente E_3, E_4, N_1, N_2, H_1, H_2, M, L; si *om.* P; acaesciesse] acaesciese E_3, E_5, N_1, P, accaesciesse H_2, acaesçie E_4; derribassen] derribasen E_3, E_4, E_5, N_1, N_2, P.

7 puédenlas] puedan las H_1; reparar] fazer M, L; o] e E_3, E_4, N_1, N_2, H_2, C, M, L; fazer] facer E_5, refaz*er* H_2, renouar M, L; aquel] aq*ue*ll N_3; mismo suelo] suelo mismo L, M (mesmo); assi] asi E_2, E_3, E_4, E_5, N_1, N_2, P, M; como + en N_1, H_2.

8 ante estavan] ant*e*staua*n* E_5; ante] antes E_4, N_2, se M, L; estavan] estaua E_3, M, estaria*n* E_4; las$_1$] les E_2; enlargando] emlargando H_2, enbargando E_2, E_3, E_4, N_3, P, alargando N_1, M, L, allargando C, alçando H_1; nin$_1$] ni M; alçando] alcando H_2, enssanchando H_1, achicando M; nin$_2$] ni E_5, M.

9 las *om.* E_3; faziendo] faciendo E_5; sinagoga] sinoga E_2, E_5, H_2, M, L, sygnagoga P; dotra] de otra E_1, E_3, E_4, N_2, H_1, C, P, M, L; guisa] gujssa E_1, N_2, me*n*te H_1; fuesse] fuese E_4, E_5, fuere E_3, N_1, H_1, P.

10 los judíos *om.* M, L; seer] ser E_3, E_4, N_2, M, L; eglesia] yglesia E_3, N_2, H_2, C, M; mayor] mayo E_5.

11 logar] lugar E_1, E_4, N_1, N_2, P, M, L, llogar C; ó$_1$] hu E_1, do E_2, E_4, N_2, A, P (?), donde M, L; la$_1$ *om.* P; fizieren] fezieren E_1, E_2, C, P, ficiere*n* E_5, fizieron E_4, N_2, H_1; la$_2$ *om.* E_3;

sinagoga] sinoga E_2, E_5, M, L, ysnoga E_1, sygnagoga P; es + mas g*ui*sada E_2; casa] cassa E_1, cosa H_1, logar E_5, lugar P; ó se] [. . .] P; ó$_2$] hu E_1, do E_2, E_4, N_2, M, A, L.

12 loa] lloa C, loar P, no*n*bra E_4, N_2; el nombre de *om.* E_1; nombre] Nome L; ningund] ningun E_1, E_2, N_3, H_1, H_2, C, ningunt E_3, N_1, negu*n* E_5, nj*n*guno N_2, njguno P; cristiano *om.* N_2.

13 osado] ossado E_1, N_2; quebrantar] crebantar N_3, sacar E_3; nin$_1$] ni E_5, M; de$_2$ *om.* H_2; sacar ende nin de *om.* E_1; sacar] saçar E_5, *que*brantar E_3; ende nin de tomar] nin de tomar ende N_1, C; ende] dende E_2; nin de tomar *om.* H_1, P; nin$_2$] ni M; de$_3$ *om.* E_2; tomar + ende E_1.

14 ninguna] negu*n*a E_5, alguna M, L; cosa] cossa E_1; + nj*n* de la tomar H_1; fuerça] fuerca H_2, fforçia E_1; fueras . . . fuerça 14/16 *om.* E_4; ende] saluo H_1, P; algund] algun E_1, E_2, E_5, N_3, H_1, H_2, C, algunt E_3, N_1, P; omne] home A, *om.* C, M, L.

15 se + a P; acogiesse] acogiese E_3, E_5, N_1, C, P, acugiesse N_3; en] a E_3, N_1, H_1, H_2, C, M, L, P (?); ca] Qua N_3; + a H_2, M, A, L; este] esto E_3, *om.* N_2; atal *om.* E_1, N_2, C, M, L; lo] le N_1, *om.* M; pueden] puede P, podrie E_3, podrian L.

16 por fuerça *om.* E_3, C; fuerça] fuerca H_2, fforçia E_1; pora] para E_3, E_4, N_1, N_2, H_1, H_2, C, P, M, L, *e* E_1; levarlo] levarle H_2, A, leuar P, llebarlo E_3, lo lleuar C, pararlo E_1; delante] delant E_2, E_4, E_5, adelant*e* E_3, ante N_1, H_2, M, L; + de E_5, H_1,

P; la] el N_2; justicia + *e* H_1; Otross] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L.

17 defendemos] dezjmos H_1; non] no E_3; y] ay M; + las P; bestias] bestia M, L; nin] ni M; posen] possen E_1, N_2, H_2.

18 ellas] ella M, L; nin] ni M; mientre] mientra E_3, E_4, N_1, N_2, H_1, H_2, C, M, L, mjetre P; + que E_3, N_1, M, L; y] ay N_2, M, *om.* E_3, H_1, P; estudieren] studiere*n* E_5, estodier*en* E_2, C, estodiessen E_1, estuuieren E_4, M, L; + a N_2.

19 faziendo] faciendo E_5, fazer N_2; + su N_2, H_1, M, L; oración] orat*i*on E_5, N_3, *om.* C; + ay [{. . .} *written above* "ay"] P; segund] segunt E_2, E_3, N_1, N_3, H_1, P, segundo E_5; su *om.* C; ley] lley C.

Critical Edition 7.24.5

Ley v "Cómo non deven apremiar a los judíos en día de sábado e quáles juezes los pueden apremiar"

Sábado es día en que los judíos fazen sus oraciones e están quedados en sus posadas e non se trabajan de fazer merca nin pleito ninguno. E porque tal día como éste son ellos tenudos de guardar segund su ley, non los deve ningund omne emplazar nin traer a juizio en él. E por ende mandamos que ningund judgador non apremie nin costringa a los judíos en el día del sábado pora traerlos a juizio por razón de debdas nin los prenda nin les faga otro agraviamiento ninguno en tal día, ca assaz abondan los otros días de la semana pora costreñirlos e demandarles las cosas que segund derecho les deven demandar. E el emplazamiento que les fiziessen pora en tal día non son tenudos los judíos de responder. E otrossí sentencia que diessen contra ellos en tal día, mandamos que non vala. Pero si algund judío firiesse o matasse o furtasse o robasse o fiziesse algund otro yerro semejante destos por que meresciesse rescebir pena en el cuerpo o en el aver, entonce los judgadores bien lo pueden recabdar en el día del sábado. Otrossí dezimos que todas las demandas que ovieren los cristianos contra los judíos e los judíos contra los cristianos que sean libradas e determinadas por los nuestros judgadores de los logares ó moraren e non por los viejos dellos. E bien assí como defendemos que los cristianos non puedan traer a juizio nin agraviar a los judíos en el día del sábado, otrossí dezimos que los judíos nin por sí nin por sus personeros non puedan traer a juizio nin agraviar a los cristianos en esse mismo día. E aún demás desto defendemos que ningund cristiano non sea osado de prender nin de fazer tuerto por sí mismo a ningund judío en su persona nin en sus cosas; mas si querella oviere dél, demándegela en juizio ante los nuestros judgadores. E si alguno fuere atrevido e forçare o robare alguna cosa dellos, dévegela tornar doblada.

Critical Apparatus 7.24.5

1 heading *om*. P; v] quinta M; non] no M; deven] deuian M; a *om*. E_1, N_1, C; los + juezes a los N_1; en + el C, L; de] del H_1, C, *om*. E_1, H_2.

2 sábado] sabbado E_1, E_2, N_3, H_2; e quáles juezes los pueden apremiar *om*. H_1; quáles] q*uo*ales N_3; juezes] juyzes E_1, E_2, E_5, E_3 (?), C (?), *om*. E_4, N_2; los] lo E_5; pueden] deue*n* E_1.

3 Sábado] Sabbado N_3, H_2; en *om*. M; los judíos fazen] ffaze*n* los judios E_1; judíos] juydios E_5; fazen] façe*n* E_5; sus] su C, M, L, *om*. E_4; oraciones] oraçions C, oracion M, L, orat*i*ones N_3; e] y M.

4 quedados] quedos E_1, C, M, L; posadas] possadas N_2, casas P, cassas E_1; e] y M; non] no M; trabajan] trauajan E_1, E_3; fazer] façer E_5; merca nin pleito] pleito nin merca L, M (ni); merca] mierca E_2, E_4, E_5, N_3, H_2, C, P, m*er*cado^{cia} (?) E_1; + ningu*n*a H_2; nin] en N_2, P.

5 pleito + *e* E_5; ninguno] ninguna M, L, njguno P, negu*n*o E_5, *om*. H_2; E] ca P, *om*. E_3; porque] por P; tal] atal M; como éste *om*. E_1, P; éste + los judios N_2; ellos *om*. E_1, N_2, P; tenudos] tenidos E_5, N_3.

6 de + lo E_1; guardar] guoardar N_3; segund] segunt E_1, E_2, N_1, N_3, H_1; ley] lley C; los] les E_3, E_4, N_2, H_1, A, C (?); ningund] ningun N_3, H_1, H_2, C, njngunt N_1, negun E_5, ninguno E_1, E_2, njguno P; omne] ome A, L, onbre M, om. E_1, E_2.

7 nin] ni E_5, M; traer] trayer (?) P, entrar E_1; a] en E_1; juizio] iuyçio E_5, iudio N_3; en] con E_1; él] ell N_3, ellos E_1; ningund] ningun E_1, E_2, N_3, H_1, H_2, C, njngunt N_1, njgund P, negun E_5.

8 judgador] julgador E_1, C; apremie] apremian E_5; nin] ni M; costringa] constringa H_2, P, M, constriña L, costreynga N_3; a om. E_1; en om E_3, H_1.

9 sábado] sabbado E_1, N_3, H_2; pora traerlos a juizio om. P; pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, C, M, L, por E_2; juizio] pleito H_1; de + las P; debdas] debda H_1, deudas N_3, debdo N_1, H_2; nin] ni M.

10 los] les E_5, H_1, H_2, om. E_3; prenda] prendan E_3, N_2, M, A, L, prenden N_1, H_1, H_2, prende C, pendre E_2, E_5, preden (?) P; nin] ni M; les] lles C; faga] fagan E_1, E_3, N_1, N_2, H_1, H_2, M, L, fagua N_3; agraviamiento] agrauamiento E_5, agreuiamiento N_3, agrauio M, L, om. E_3; ninguno] neguno E_5, om. C; en tal día om. E_5, P.

11 ca] Qua N_3; assaz abondan] abonda asaz E_4, N_2; assaz] asaz E_2, E_3, E_5, N_1, P; abondan] abonda E_1, E_2, E_3, E_5, H_1, C, M; + en H_1, + a P; semana] semena E_2, selmana N_1, sedmana H_2; pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, C, P, M, L.

12 costreñirlos] costrenirlos E_1, E_4, C, costriñirlos A, costrynjrlos P, constrinnirlos H_2, costreynnerlos N_3, costrennjrles N_2; e] de H_1; + a E_3, N_3, C; demandarles] demandarlles E_1, demandarle H_1, demandales E_4, demandar E_3, C, M; las cosas] lo E_4, N_2, om. M; cosas] cossas E_1; que om. E_2; segund] segun E_5, segunt E_1, E_2, N_1, N_3, H_1, fagan M; derecho] drecho N_3; + e M; les] lles C, los M.

13 deven + a N_3; el emplazamiento que les fiziessen] si los alguno enplazar E_2; el] ell H_1, al E_5, N_1, N_3, H_2, P, L, om. E_4; emplazamiento] emplaçamiento E_5, aplazamjento E_4, N_1; les] lles C; fiziessen] ffeziessen C, fezjesen P, fizjesen E_4, ficiesen E_5, ffezieren E_1, fizieren E_3, N_1; pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, C, P, M, L.

14 en om. E_3, N_2, P, A; tenudos] tenidos E_5, N_3; los judíos om. E_3; de] para P; responder] rressponder E_1; E om. E_1, E_3, E_4, N_1; otrossí] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L.

15 sentencia] sentecia H_2; diessen contra ellos en tal día] en tal dia contra ellos ffuese dada E_1; diessen] diesen E_3, E_4, E_5, N_1, P; contra ellos] para E_5, om. P; ellos] eyllos N_3; mandamos] manda E_2.

16 non] no M; + la P; vala] valga C, P; algund] algun E_1, E_2, E_5, N_3, H_1, C, algunt N_1, P, alguno H_2; judío om. H_2; firiesse] firiese E_4, E_5, N_1, N_2, fferiesse E_1, C, feriese E_3, P, feriere E_2; matasse] matase E_3, E_4, E_5, N_1, P, M; + o tornasse E_4;

furtasse o robasse] robasse o furtasse L, M (-s-, -s-); furtasse] furtase E_3, E_4, E_5, N_1, N_2, P.

17 robasse] robase E_2, E_3, E_4, E_5, N_1, P; + en tal dia N_1; o + si N_1; fiziesse] ffeziesse E_1, E_2, C, fezjese P, fiziese E_3, E_4, N_1, M, ficiese E_5; algund otro yerro] otro yerro alguno E_2; algund otro] otro algunt E_3; algund] algun E_1, E_5, N_3, H_1, H_2, C, algu*n*t N_1, alguno P; otro *om*. E_1, H_1, H_2; destos] destas E_3; por *om*. E_2.

18 meresciesse] meresciese E_3, E_4, E_5, A, mereçiesse H_1, C, mereçiese N_1, meresçe P, deuen M, L; + o E_5, + a P; rescebir] recebir E_2, C, A, L, rrecebr E_5, rreç[. . .] N_1, auer H_1, *om*. N_3; o en el aver *om*. H_1.

19 entonce] estonce E_2, E_5, N_1, N_3, P, M, L, estue*n*çe E_1; los judgadores *om*. C; judgadores] julgador*es* E_1; bien *om*. M, L; lo pueden] pueden lo M; lo] los E_2, E_5, N_3, H_1, H_2, C; recabdar] Recabar H_1, Recabda E_4, prender M, L; en *om*. E_1.

20 sâbado] sabbado N_3, H_2; + Et C, P; Otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; dezimos] deçimos E_5; las *om*. M; ovieren los cristianos] los c*rist*ianos ouje*ren* N_1; ovieren] oviesen E_3.

21 los$_1$ + ~~judios~~ C; e los judíos *om*. P; los$_3$ *om*. E_3; los$_4$ + cont*ra* C; los$_4$ *om*. E_3.

22 libradas] librados E_4, N_3, P, denu*n*çiadas C; determinadas] determinados E_4, N_3, deteremjnados (?) P, denu*n*çiadas E_3, detiendas E_5, llebradas C; nuestros + ~~jueces~~ C.

23 judgadores] julgadores E_1, C; logares] lugares E_1, E_4, N_1, N_2, P, M, L, llugares C; ō moraren *om.* E_4; ō] hú P, do E_2, H_1, M, A, L; non] no M, *om.* E_3; por *om.* E_4; viejos] suyos E_2.

24 dellos] dellas P, *om.* C; assí] asi E_4, E_5, N_1, N_2, P, M, ansy E_3; defendemos que *om.* E_3, C; non] no M.

25 puedan] pueden E_3, C, *om.* E_4, N_2; traer] trayer P, trayan E_4, N_2; juizio] judio E_3; nin] ni M; agraviar] agreuiar N_3, apremiar H_1; a_2 *om.* E_4, N_2; el *om.* E_1, E_3, E_4, E_5, N_1, N_3, M, L.

26 del] de E_4, E_5, N_1, N_3, M, L, *om.* E_3; sâbado] sabbado E_1, N_3, H_2; otrossí] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, bien asi M, L (assi); dezimos] defendemos E_1, N_2; nin$_1$] non H_1, *om.* E_1, E_3, N_1, P, M, L; sí + mjsmos P; nin$_2$] ni E_5, M.

27 sus] ssu C; personeros] perssoneros E_1, E_2, N_2, H_1, personas N_3, P, debda C; puedan] pueden E_3, H_1, C; a juizio *om.* M, L; juizio] iudicio E_2; nin] ni E_5, M; agraviar] agreuiar N_3, apremiar H_1.

28 a *om.* E_1, E_4, E_5; esse] ese E_4, N_1, P, M, este E_1, E_3, H_1; mismo] mjssmo E_1, mesmo E_3, N_1, M, L; aun] vna (?) P; demás desto *om.* C; demás] dezimas E_2; desto *om.* E_3.

29 ningund] ningun E_1, E_2, N_3, H_1, H_2, C, njngunt E_3, N_1, P, nigun E_5; non] no E_5, M; osado] ossado E_1, N_2; prender] prendar E_2, E_5, P, L, peyndrar N_3.

30 nin] ni E_5, M; de om. E_2, M, L; fazer] façer E_5; por sí mismo a ningund judío] a ningun iudio por si mismo H_2; sí] su E_5; mismo] mjssmo E_1, mesmo M; ningund] ningun E_1, E_2, N_3, H_1, C, njngunt E_3, N_1, nengun E_5, njgunt P; en su persona om. E_3, C; en] a H_1.

31 persona] perssona E_1, N_2, H_1; nin] ni E_5, M; sus] sy E_4; cosas] cossas E_1; querella] quereylla N_3; oviere dél] del oujere E_1; oviere] ouier E_5; dél] dell N_3.

32 demándegela] demandegelo E_1, E_2, E_5, N_2, M, L, demandadegelo P; en juizio om. M, L; juizio] juyçio E_5; los om. E_3, E_4, E_5, N_1, N_2, N_3, H_2, C, P, M, L; judgadores] julgadores E_1, C.

33 fuere] fuer E_4; atrevido] atreuudo E_5, N_3; e] que E_2, o E_3, C, P, a E_4, N_2; forçare o robare] rrobare o fforçare C; forçare] forçar N_2, forzar E_5, forciare E_2; o] Et E_4; robare] robar E_5, tomare H_1; + e le forçasse o le rrobasse N_2; cosa] cossa E_1, N_2.

34 dévegela] deuengelo P, deuela N_3, deuelo E_2, H_2, deuello E_1, om. E_3, C; tornar] tomar E_2, pechar P, tornegelo E_3, tornegela P; + todo P; doblada] doblado E_1, E_2, E_3, H_2, P, dobrada C.

Critical Edition 7.24.6

Ley vj "Cómo non deven seer apremiados los judíos que se tornen cristianos e qué mejoría ha el judío que se torna cristiano e qué pena merescen los otros judíos que les fiziessen mal o desonrra por ello"

Fuerça nin premia non deven fazer en ninguna manera a ningund judío por que se torne cristiano, mas con buenos enxemplos e con los dichos de las Santas Escripturas e con falagos los deven los cristianos convertir a la fee de Nuestro Señor Jhesu Christo, ca Nuestro Señor Dios non quiere nin ama servicio quel sea fecho por premia. Otrossí dezimos que si algund judío o judía de su grado se quisiere tornar cristiano o cristiana, non gelo deven embargar nin defender los otros judíos en ninguna manera. E si algunos dellos lo apedreassen ol feriessen ol matassen por que se quisiesse fazer cristiano, o después que fuesse baptizado si esto se podiere averiguar, mandamos que todos los matadores e los consejadores de tal muerte o apedreamiento sean quemados. E si por aventura nol matassen mas lo feriessen ol desonrrassen, mandamos que los judgadores del logar ó acaesciere apremien a los feridores e a los fazedores de la desonrra de manera que les fagan fazer emienda por ello. E demás que les den pena por ende segund entendieren que merescen de la rescebir por el yerro que fizieron. Otrossí mandamos que después que algunos judíos se tornaren cristianos que todos los de nuestro señorío los onrren e ninguno non sea osado de retraer a ellos nin a su linaje de cómo fueron judíos en manera de denuesto. E que ayan sus bienes e sus cosas partiendo con sus hermanos e heredando a sus padres e a los otros sus parientes bien assí como si fuessen judíos. E que puedan aver todos los oficios e las onrras que an los otros cristianos.

Critical Apparatus 7.24.6

1 *heading om.* P; Ley] lley C; vi] sesta M; Cómo + a N_2; non] no E_3, E_5, M; seer] ser E_3, E_4, N_2, C, M, L; tornen] tornan H_1, A, tornaren E_2, terne*n* E_3.

2 ha] aue E_2; torna] tornare E_5, L, E_3 (?); cristiano + entre los otros judios [*remainder of head. om.*] H_1.

3 merescen] merecen E_2, E_5, C, L; que] *quel* E_1; les] los E_3, le L; fiziessen] fiziesen E_3, ffeziesse*n* C, feçiese*n* E_5, fizieren E_4, N_2, ffeziere*n* E_1, fazen N_1, H_2; mal o *om.* E_4, N_2; o desonrra por ello *om.* M, L; desonrra] dessonrra E_1, N_2.

4 por ello *om.* E_4, N_2.

5 Fuerça] Fuerca H_2, [. . .] C; nin] ni E_5, M; non] no E_5; deven] deue E_3; fazer] facer E_5, *om.* P; en ninguna manera a ningund judío] a nj*n*gunt judio en ningu*n*a man*er*a E_3, C (ningu*n*); ninguna] njguna P; ningund judío] judio nj*n*guno E_1; ningund] ningun E_2, E_5, N_3, H_1, H_2, nj*n*gu*n*t N_1, njgu*n*t P.

6 por *om.* E_3, H_1, C; torne] tornase E_3; con] por E_4, N_2, M, L; buenos] bonos E_2, N_3; enxemplos] enxienplos N_2, H_1, exiemplos E_5, N_3, H_2, exemplos E_2, L.

7 con los dichos de las Santas Escripturas e *om.* C; Santas] s*anc*t*as* E_2, E_5, N_3, H_2; los_2] les H_1.

8 convertir] conuerter E_1, P; fee] fe E_1, E_2, E_4, E_5, N_1, N_3, H_1, H_2, P, M, L; Señor] ssenor E_1, seynnor N_3.

9 ca . . . premia 9/10 *om.* H_1; ca] Qua N_3; Nuestro Señor Dios] el M, L; Señor] seynnor N_3; Dios *om.* N_2; non] no E_5, M; quiere nin ama] ama nin quiere H_2; quiere] quier C; nin] ni E_5, M; ama + al M; servicio] seruitio N_3; + del N_2; quel] que le E_3, M, L, que E_1, E_2, N_2.

10 premia] fuerça N_1, fuerca H_2, primera P; Otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; dezimos] deçimos E_5; algund] algun E_1, E_2, E_5, N_3, H_1, H_2, C, algunt E_3, N_1, P; o judía de su grado *om.* H_1; de su grado se quisiere tornar cristiano o cristiana] se quisyese tornar cristiana de su grado o cristiano E_4.

11 quisiere] quissiere E_1, quisiesse N_2, quisie[. . .] C; o cristiana *om.* H_1; non] no M.

12 nin defender *om.* P, M, L; nin] nj E_5; ninguna] njguna P.

13 algunos] alguno E_3, N_1, C, P; dellos] de los judios E_4, N_2, *om.* E_1; lo] los E_4, N_2, H_1, *om.* E_3; apedreassen] apedreasen E_3, E_4, N_1, P, M, apedriesen E_5; ol$_1$] o lo E_5, N_1, N_3, C, o los E_4, N_2, H_1, o E_3, M, L; feriessen ol *om.* E_2; feriessen] feriesen E_3, P, firiessen H_1, H_2, M, L, firiesen E_4, E_5, N_1; ol matassen *om.* E_3, C; ol$_2$] o lo N_1, N_3, o los E_4, N_2, H_1, o M, L; matassen] matasen E_5, N_1, P; que] quanto M, L.

14 se om. E_3; quisiesse] quisiese E_5, N_1, P, quisiessen N_2, H_1, quisiesen E_3, tornasse E_1; fazer] façer E_5, ser E_3, tornar H_1, M, L, om. E_1; cristiano] cristianos E_3, N_2, H_1; + o cristiana E_2, M, L (Chr-); o] e H_1, M, om. E_2; después] depues H_1; fuesse] fuese E_1, E_3, E_5, N_1, P, M, ffuere H_1, fuer E_4, C, fueren N_2; + cristiano e E_4, N_2 (cristianos); baptizado] bautizado E_1, E_4, H_1, C, bautizados N_2, babtizado E_2, E_5, N_1, batyzado P; + mandamos que P; si] E N_2.

15 podiere] podier C, pudiere E_3, E_4, E_5, N_1, N_3, H_1, P, M, L, pudiese A, puede N_2, pudiesse (?) H_2; + prouar o N_1; averiguar] auerigar N_3; los] aquellos M, L.

16 e los consejadores om. P; e] o C, L, con N_2; los om. M, L; los + ffazedores C; consejadores] conssejadores H_1, C, aconsejadores M, L, consentidores E_2, E_5, N_3, H_2, conssitadores E_1; muerte o apedreamiento] apedreamiento o muerte H_2; o apedreamiento om. E_1; apedreamiento] apodreamiento E_5, apredamjento (?) P; + que E_2, H_1, P; quemados] apedreados e de ssy quemenlos E_1; + en fuego H_1.

17 no] non lo E_2, N_1, H_1, C, P, M, L, non le E_3, N_2; matassen] matasen E_3, E_4, E_5, N_1, P; mas] ni M; lo feriessen] fferiessen lo E_1; lo] le E_3, E_5, H_2, C, quel E_2; feriessen] feriesen E_2, E_3, E_4, P, firiessen H_1, H_2, M, L, firiesen E_5, N_1; o] o lo E_3, N_1, N_3, C, P, L, o le N_2, o H_1, mas lo M; desonrrassen] dessonrrassen N_2, desonrrasen E_4, N_1, P, E_5 (-r-), desterrasen E_3, M (-ssen).

18 que] q*ue*l E_1; judgadores] julgador*e*s E_1, C; del logar *om*. E_3; del] de H_1; + aq*ue*l H_1; logar] lugar E_1, E_4, N_1, N_2, P, M, L, llugar C; õ] hu P, do E_2, E_4, N_1, H_1, M, L; acaesciere] acaeciere L, acaessçiesse E_1, acaesçiesse H_1, acaesciese E_4, A, acaesçen P; + que E_1, E_2, E_4, N_2.

19 feridores e a los fazedores] fazedores *e* feridores N_2; feridores e a los *om*. H_1, P; e a los fazedores *om*. E_3; e] o N_3, C; fazedores] façedores E_5; la] las E_3, les C; desonrra] dessonrra N_2, desondra E_5, N_3, desonrras E_3; de manera *om*. H_1; de] en N_1.

20 les$_1$] lles C, los E_2, E_4, P; fagan] faga P; fazer] façer E_5, *om*. H_1; emienda] enmienda E_1, E_4, N_2; por ello] por ell E_5, dello E_1, N_1, H_1, H_2, *om*. P; les$_2$] lles C, los E_2.

21 ende] ello E_1, C, M; segund] segunt E_1, E_2, E_3, N_1, N_3, H_1, P, segudo E_5; + que E_4, E_5, N_2, C, M, L; entendieren] entie*n*diere*n* E_5, entendiere E_3, N_3, C, P; que + la E_4, N_2; merescen] merecen H_1, H_2, L, meresce E_3, N_3, P, mereçe C, ue*n*cen E_5; de la rescebir *om*. H_1; la *om*. E_4, N_2; la + a E_2; rescebir] recebir E_2, E_5, N_1, N_3, C, L.

22 el] ell H_1, tal E_4, N_2; fizieron] feçiero*n* E_5, fezieron C, P, fizieren E_2, E_4, N_2, ffeziere*n* E_1; Otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; después que *om*. E_1; después] pues H_1; algunos] alguos E_5, a los E_1.

23 judíos + en E_5, + q*ue* E_1; de] del E_3, E_4, H_2, C, A; señorío] seynnorio N_3, sen*n*oro (?) P.

24 los] les N_2, *om.* E_5; non] no M; osado] ossado E_1, N_2; retraer] trabar E_5; ellos] ella E_3; nin] ni E_5, M.

25 linaje] llinage C, le*n*guage E_2; de_1 *om.* E_3; denuesto] de nuestro P; que *om.* E_3.

26 ayan] aya E_1, H_1, C; bienes + ent*re*gamjent*e* (?) E_1; e + de todas M, L, + en E_3; cosas] cossas E_1, casas E_3; + *e* todas ssus cosas H_1; sus_3] su N_1; hermanos . . . sus_2 26/27 *om.* E_2; e_2 *om.* M, L; heredando + lo M, L.

27 a_1] de H_1, M, L; e + de sus madres e H_1, M, L; a_2] de H_1, M, L; sus_2 *om.* H_1; assi] asi E_4, E_5, N_1, N_2, P, M, ansy E_3; fuessen] fuesen E_1, E_3, E_4, E_5, N_1, P, M.

28 judíos] c*risti*anos E_1; E *om.* E_2; los] ssus C; + hedefiçios *e* N_2; oficios] offiti*os* N_3, edefiçios E_4.

29 an + todos E_3, E_4, N_2, H_1, H_2, M, L; otros *om.* E_3, C, P.

Critical Edition 7.24.7

Ley vij "Qué pena meresce el cristiano que se tornare judío"

Tan malandante seyendo algund cristiano que se tornasse judío, mandamos quel maten por ello, bien assí como si se tornasse hereje. Otrossí dezimos que deven fazer de sus bienes en aquella manera que dixiemos que deven fazer de los bienes de los herejes.

Critical Apparatus 7.24.7

1 *heading* *om*. P; vij] setena M; meresce] merece E_2, E_3, N_3, H_1, H_2, C, L, me*re*çen E_5, meresçen N_2; el] los N_2; + ~~judio~~ E_1; cristiano] c*risti*anos N_2; tornare] torna E_1, E_3, E_4, N_1, tornan N_2; judĩo] judios N_2; + *e* q*ue* deue*n* ffaz*er* de ssus bien*e*s E_1.

2 Tan] Tant E_2, H_2; malandante] andante E_5; seyendo] seyiendo E_5; algund] algun E_1, E_2, E_5, N_3, H_1, H_2, C, algunt E_3, N_1, P; + ~~omne~~ E_1; tornasse] tornase E_3, E_4, E_5, N_1, P.

3 quel] que lo E_2, N_2, M, L, q*ue* le E_3; ello] elo E_5; bien *om*. E_3, C; assi] asi E_3, E_4, E_5, N_1, N_2, P; tornasse] tornase E_1, E_3, E_4, E_5, N_1, P.

4 Otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M; dezimos] deçimos E_5; de . . . fazer 4/5 *om*. E_3.

5 dixiemos] diximos E_3, N_1, P, M, L, dexiemos C, deximos N_2, dezimos E_4; deven] deuemos N_2, *om*. M, L; fazer] façer E_5, fazen M, L; bienes] averes E_2, E_4, N_3, H_2, M, L.

Critical Edition 7.24.8

Ley viij "Cómo ningund cristiano nin cristiana non deve fazer vida en casa de judío"

Defendemos que ningund judío non sea osado de tener en su casa cristiano nin cristiana pora servirse dellos, como quier que los puedan aver pora labrar e enderesçar sus heredades de fuera o pora guiarlos en camino quando oviessen a ir por algund logar dubdoso. Otrossí defendemos que ningund cristiano nin cristiana non combide a judío nin judía nin resciba otrossí combite dellos pora comer nin bever en uno nin beva del vino que es fecho por mano dellos. E aún mandamos que ningund judío non sea osado de bañarse en baño en uno con los cristianos. Otrossí defendemos que ningund cristiano non resciba melezinamiento nin purga que sea fecha por mano de judío, pero bien la puede rescebir por consejo de algund judío sabidor solamientre que sea fecha por mano de cristiano que connosca e entienda las cosas que son en ella.

Critical Apparatus 7.24.8

1 *heading om*. P; viij] otaua M; Cómo] *Que* E_2; ningund] ningun E_1, E_2, E_5, N_3, H_2, njngunt N_1, el C, los H_1; cristiano] cristianos H_1, judio N_1, ~~judio~~ cristiano [*sic MS*] C; + non se sirua de cristiano njn de cristiana njn se banne en el banno de los cristianos njn el cristiano non rreçiba melezina de judio njn purga N_1; nin cristiana *om*. E_2, H_1; nin] ni E_3, E_5, M; + la C; non] no E_5; deve] deuen N_2, H_1, L, *om*. C; fazer] façer E_5, faga C.

2 en] con H_1, M, L; casa de] los H_1, *om*. M, L; casa] cassa E_1; de + los E_1, ningun E_2; judio] judios E_1, H_1.

3 ningund] ningun E_1, E_2, E_5, N_3, H_2, C, ningunt E_3, N_1, njnguno P; osado] ossado E_1, N_2; tener] rretener [*sic MS*] E_1; en su casa cristiano nin cristiana para servirse dellos] cristiano nin cristiana para servirse dellos en su casa N_1; casa] cassa E_1.

4 nin] ni E_5, M, o C; pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, C, P, M, L, por E_2; servirse] se E_5; dellos + e M; quier] quiere H_1.

5 puedan] pueden E_1, H_1, pueda P; pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, C, P, M, L; labrar] librar E_3, lauarar E_5, llaurar C; e + para C; enderesçar] endereçar E_2, E_5, N_1, H_1, C, P, L, enderecar H_2, endreçar N_3, endesçar E_1; + sus lauores de P; heredades] heredados E_5, herederos N_3, *om. to end of title xxiv* C.

6 pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, P, M, L; guiarlos] guardarlos E_1, N_1, H_1, H_2, guardarles M, L; en + algun E_1; oviessen] oviesen E_3, E_4, E_5, N_1, P, ouiesse E_2; a] de E_2, H_1, M, L, *om.* E_1; por] *para* E_3, E_4, pora E_5, de H_1, a M, L; algund] algun E_1, E_2, E_5, N_3, H_2, algunt E_3, N_1, vn H_1; logar] lugar E_1, E_3, E_4, N_1, N_2, M, L.

7 dubdoso] dubdosso N_2, P, dudoso E_3, dupdosso E_1, a otro H_1; otrossi] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; + dezimos *e* E_2; ningund] ningun E_1, E_2, E_5, N_3, H_1, H_2, njngunt N_1; nin] ni E_5, M, o N_3.

8 non] no E_5; combide] conuide E_1, E_2, E_4, E_5, N_3, H_1, H_2; a + ningund E_4, M, njngunt N_1, ningun L; nin$_1$] ~~nj~~ njn [*sic MS*] E_1, nj E_5; + a E_1, E_2, E_5, N_2, N_3, H_1, H_2, P; nin$_2$] nj E_5; + lo N_2; resciba] reciba E_2, E_5, N_1, N_3, H_1, L; otrossi] otrosi E_1, E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; combite] conuite E_1, E_2, N_3, H_2, E_5 (?), conujdo H_1, vianda E_4, ura (?) avn *que* non tomen N_2; dellos] de ellos H_1.

9 pora] para E_1, E_3, E_4, N_1, N_2, H_1, H_2, P, M, L; comer] commer E_4; nin$_1$] ni M, o E_1, E_3, E_4, E_5, N_2, N_3, H_1; en uno nin beva *om.* H_1; nin$_2$ . . . uno 9/11 *om.* E_4; nin$_2$] ni E_5; + para N_2; beva] beuan E_2, E_3, N_1, N_3, H_2, M, L, beban A; del] el E_2, de H_1, *om.* N_2.

10 ningund] ningun E_1, E_2, E_5, N_3, H_1, H_2, njngunt E_3, N_1; non *om.* E_3; osado] ossado E_1.

11 bañarse] baynnarse N_3; en baño *om.* P; baño en uno] vno en ban*n*o M; baño] bano E_1, baynno N_3, ban*n*os N_2; uno . . . nin 11/12 *om.* E_3; cristianos + E M, L; Otrossi] otrosi E_2, E_4, E_5, N_1, N_2, P, M, L; defendemos que *om.* E_1; defendemos] mandamos P, M.

12 ningund] ningun E_1, E_2, E_5, N_3, H_1, H_2, nj*n*gunt N_1; non] no E_5; resciba] reciba E_1, E_2, E_5, N_1, N_3, H_1, L; melezinamiento] melizinamj*en*to E_1, meliçinam*ien*to E_5; nin] nj E_5; purga] porga E_5.

13 fecha] fecho E_1, E_5, N_3, M; la puede rescebir] puede recebirla L, puede resçebirlo M; la] lo E_2, N_2, H_1, H_2, P; puede] pueden E_4, E_5, N_2, N_3, H_1; rescebir] recebir E_2, E_5, N_1, N_3, H_1, H_2; por$_2$ + mano de E_3.

14 consejo] consseio E_1, H_1; de algund] dalgu*n* E_5, N_3; algund] algun E_1, E_2, H_1, H_2, algunt E_3, N_1; judío *om.* E_4, N_2, M, L; sabidor + tan M, L; solamientre] ssolamjent*e* E_1, solamente E_3, E_4, N_1, N_2, H_1, H_2, P, M, L; fecha] fecho E_2, E_4, N_3, H_2, M, L.

15 mano] [≠≠≠; "mano" *in marg.*] E_1; connosca] conosca E_1, E_3, E_4, E_5, N_1, N_2, P, M, con*n*ozca N_3, conozca L; e] y M; entienda] hemjenda E_3; cosas] cossas E_1; en ella] enllas E_3.

Critical Edition 7.24.9

Ley ix "Qué pena meresce el judío que yaze con cristiana"

Atrevencia e osadía muy grande fazen los judíos que yazen con las cristianas. E por ende mandamos que todos los judíos contra quien fuere provado daquí adelante que tal cosa ayan fecho, que mueran por ello; ca si los cristianos que fazen adulterio con las mugeres casadas merescen por ende muerte, mucho más la merescen los judíos que yazen con las cristianas, que son espiritualmientre esposas de Nuestro Señor Jhesu Christo por razón de la fee e del baptismo que rescibieron en nombre dél. E la cristiana que tal yerro como este feziere, non tenemos por bien que finque sin pena. E por ende mandamos que si fuere virgen o casada o bibda o muger baldonada que se dé a todos, que aya aquella misma pena que diximos en la postrimera ley del título de los moros que deve aver la cristiana que yoguiere con moro.

Critical Apparatus 7.24.9

1 *heading om*. P; ix] viij E_4, nouena M; Qué pena meresce el judío que yaze con cristiana] com*mo* nj*ngun*d c*ristian*o nj*n* c*ristiana* no*n* deue faz*er* vida en casa de judio [*crossed out and in margin is written the correct heading*]: ley jx q*ue* pena meresçe el judio q*ue* yaze (?) co*n* la c*ristiana* E_4; meresce] merece E_2, E_5, H_1; que$_2$ *om*. E_5; yaze] faze E_3; con + la N_1, H_1; con + la mugier E_1; cristiana + *e* ot*ro*ssy q*ue* pena m*er*esçe ella E_1.

2 Atrevencia] treuencia E_1, E_4, E_5, N_3, P, Areuencia E_2; e] o E_4, M; osadía] ossadia E_1; grande] gra*n*t E_1; muy grande fazen] fazen muy grande N_2, H_2, P, E_4 (grand); muy] muyt N_3; fazen] façen E_5; que] en H_1; yazen] yaçen E_5, yazer H_1.

3 las *om*. E_3; E *om*. M.

4 fuere] fuer E_4; daquí] de aqui E_3, E_4, N_2, P, M, L; adelante] adelantre E_5; cosa] cossa E_1; + fuere prouado q*ue* N_2; ayan] ayn E_4, aya M.

5 mueran] muerra*n* E_1, muera M, muerte E_4; ca] qua N_3; fazen] façe*n* E_5.

6 las *om*. H_1; mugeres] mugier*es* E_1; casadas] cassadas E_1, *om*. E_3; + q*ue* E_4, N_2; merescen] merecen E_5, H_1, H_2, P; por ende muerte] muerte por ende H_2; por ende] pena de H_1, *om*. P; muerte] a morir E_1, morir E_2; la] lo E_1, E_2, E_3, E_4, E_5, N_2, N_3, H_1, M.

7 merescen] merecen E_5, N_3, H_1, H_2; yazen] yacen E_5, ayazen (?) P.

8 espiritualmientre] spiritalmientre E_2, E_5, N_3, espiritalmjente E_1, espiritualmente E_3, E_4, N_1, L, spiritualmente N_2, H_1, H_2, M, espeçialmente P; esposas] espossas N_2; de + dios P; Nuestro Señor Jhesu Christo] ihesu cristo nuestro sennor E_3; Nuestro Señor *om.* M; Señor] seynnor N_3, *om.* ["sennor" *in marg.*] E_5.

9 de la fee e del baptismo] del bautismo e de la ffe H_1; fee] fe E_2, E_4, E_5, N_1, N_3, H_2, P, M, L; e] y M; del] de E_3; baptismo] babtismo E_1, E_2, H_2, A, bautismo E_4, P; rescibieron] Resçebieron E_3, recebieron E_2, N_3, recibieron E_5, N_1, Reçiben H_1, Resçibio P; en + el N_2; nombre] nome L; dél] dell N_3.

10 E *om.* E_5; como este feziere] ffeziesse como este E_1, N_1 (fiziere); como este *om.* M, L; feziere] fiziere E_3, N_3, H_1, H_2, P, M, L, fizjer E_4, fiçiere E_5; non *om.* N_1; tenemos por bien que *om.* H_1.

11 que$_1$ + non N_1; E *om.* H_2.

12 fuere] fuer E_1, E_4; + mugier E_1; virgen] uirgin E_2; casada] cassada E_1, casa ["da" *in marg.*] E_5; bibda] biuda E_1, E_3, E_4, N_2, N_3, H_1, P, M, L, vibda A; muger] mugier E_1, *om.* E_4, H_1, H_2, M; que se dé a todos *om.* E_4, N_2; se] sea E_3; dé] da H_2.

13 aya] ayan P, M, *om.* H_1; misma pena] pena mjsma N_2; misma] mesma M, L, *om.* E_1, E_2, N_1, N_3, H_2; dixiemos] dixemos E_4, deximos

N_2, diximos N_1, M, L, diremos E_3, H_2, P; postrimera] postremera E_2, E_5, N_3, H_2.

14 del] deste E_3, H_1, en el M, L; moros + *que* sse ssygue en pos deste E_1; que deve aver la cristiana que yoguiere con moro *om.* N_2; deve] deue*n* N_1.

15 yoguiere] yoguyre N_1, yugujere P, H_1 (-uyere), yaze E_4; con + el E_1.

Critical Edition 7.24.10

Ley x "Qué pena merescen los judíos que tienen cristianos por siervos o fazen sus cativos tornar a su ley"

Comprar nin tener non deven los judíos por sus siervos omne nin muger que fuessen cristianos. E si alguno contra esto fiziere, deve el cristiano seer tornado en su libertad e non deve pechar ninguna cosa del precio que fue dado por él, maguer el judío non sopiesse quando lo compró que era cristiano. Mas si sopiesse el judío que lo era quando lo compró, e se serviesse después dél como de siervo, deve el judío morir por ende. Otrossí defendemos que ningund judío non sea osado de tornar judío su cativo nin su cativa, maguer sean moros o moras o dotra gente bárbara. E si alguno contra esto fiziere el siervo o la sierva a que tornare judío o judía, mandamos que sea luego por ende libre e tirado de poder daquel o daquella cuyo era. E si por aventura algunos moros que fuessen cativos de judíos se tornassen cristianos, deven seer luego libres por ende, assí como se muestra en la quarta partida deste libro en el título de la libertad en las leyes que fablan en esta razón.

Critical Apparatus 7.24.10

1 *heading om*. P; x] dezena M; merescen] mereç*en* E_3, mereçe H_1; tienen] tiene E_5; + los H_1, M; cristianos] c*risti*anas E_2.

2 por *om*. E_1; siervos] sieruas E_2; + en sus casas E_1; o fazen sus cativos tornar a su ley *om*. M, L; o + los N_2; fazen] facen E_5, tornan H_1; sus *om*. E_2; cativos tornar] tornarse catiuos E_2; cativos + o N_2; tornar] tornarse E_1, *om*. H_1; a su ley *om*. E_3; ley] ffe H_1.

3 Comprar] conplar P; nin$_1$] nj E_5; non] lo E_3; + pueden E_2; sus *om*. H_2, P; siervos + a H_1, P; omne] om*ne*s N_1, P, omes H_1, H_2, A, ome L, onbre M; nin$_2$] nj E_5; + a H_1, P.

4 muger] mugier E_1, mugeres N_1, mugieres H_2; que fuessen *om*. E_1, H_1; fuessen] fuesen E_3, E_4, E_5, N_1, P, fuesse M, L; cristianos] Christiano L, c*risti*anas H_2, cristiana E_1, M; fiziere] ficiere E_5, feziere E_2, P, fiziesse N_2, fiziesen E_3, ffuesse E_1.

5 el cristiano seer] seer el cr*ist*iano N_1; seer] ser E_1, E_3, E_4, N_2, M, L; tornado] tenudo E_4; libertad] libertat E_1, E_2, E_4, ljbe*r*lat E_5, libredat N_3, lebertad P; non] no E_5, M; pechar] [. . .] P.

6 ninguna] njguna P, ni*n*gua E_1; cosa] cossa E_1; precio] presçio E_3; fue] ffuesse E_1, ffuere H_1; dado] dada N_3; por él *om*. P; él] ell N_3; maguer] mager P, magar E_5; + que E_4, N_1, P.

7 non sopiesse quando lo compró] q*ua*ndo lo conpro non ssupiesse H_1; non] no E_5; + lo E_4, N_1, N_2, H_2; sopiesse$_1$] sopiese E_3, E_5, N_1, P, supiese E_4, supiesse N_2, H_2, M, L; quando] do N_2; lo] la P; compró] conpla P; que] *quel* E_3; si *om.* E_3; + lo E_1; sopiesse el judío] el judio sopiesse L, M (-s-); sopiesse$_2$] sopiese E_1, E_3, E_5, N_1, P, supiese E_4, supiesse N_2.

8 el judío *om.* E_1, E_2, E_3, E_5, N_1, N_3, H_2; que lo era quando lo compró] q*ua*ndo lo conpro *que* lo era N_2; quando lo compró *om.* H_1, P; e] o E_2; serviesse] seruiese E_3, P, A, siruiese E_5, N_1, siruiesse H_1, M, L, seruiere H_2, seruje H_2, syruje E_4; + el judio E_4, H_1; después dél] del despues M, L; después] desspues N_2, despuso (?) E_3, *om.* E_4, H_1; dél] deyll N_3, *om.* P; + el judio N_2.

9 de + ssu E_1, H_1; siervo + *e* P; deve] deuel [*sic MS*] E_4; ende + Et P; otrossí] otrosi E_2, E_3, E_4, E_5, N_1, N_2, P, M, L; defendemos] dezimos E_3.

10 ningund] ningun E_1, E_2, E_5, H_1, H_2, N_3, nj*n*gunt N_1, njgu*n*t P, nj*nguno* E_3; judío *om.* E_3; non] no E_5, M; osado] ossado E_1, N_2; tornar + a E_2; + a su ley a H_2; judío su cativo] su catiuo judio M, L (captiuo); judío + a ssu ssieruo nj*n* a H_1; judío *om.* E_1; cativo + a ssu ley de los judios E_1; nin] ni E_5, o E_4, N_2, H_1; su$_2$ *om.* E_1, E_2, N_3, M, L.

11 cativa] catiba E_3, judia M, L; maguer] mager P, magar E_5; o moras *om.* E_1, H_1, H_2, M, A, L; dotra] de otra E_1, E_3, E_4, N_1, N_2, H_1, H_2, P, M, L; gente] gentes N_3; bárbara] baruara E_4.

12 esto] este E_3; fiziere] ficiere E_5, feziere E_2, P, fiziesse H_2, ffuer E_1; siervo] syerua E_4, N_2; a om. E_1, E_4, E_5, H_1, P; que] quien E_2, N_1, N_2, H_2, M, L, qui N_3; tornare] tornasse H_1, tornase P, tornaren N_3; + el E_3.

13 que sea om. E_4; luego por ende] por ende luego E_3; luego om. E_2, E_4, N_2, H_1, H_2, M, L; por ende libre] ljbre por ende H_1; ende + que sea E_4; tirado] sacado E_2; de] del E_3, E_4, N_2.

14 daquel] de aquel E_3, E_4, N_1, N_2, H_2, P, M, L, de aquell E_2, daquell N_3, con quel E_1; daquella] de aquella E_1, E_4, N_1, H_1, H_2, P, M, L, de quella E_2, aquella E_3, N_2; cuyo] cuya H_2; moros om. H_1.

15 fuessen] fuesen E_1, E_3, E_4, E_5, N_1, P; cativos] catibos E_3, captiuos L, catiuerios (?) P; tornassen] tornasen E_3, E_4, E_5, N_1, P; seer] ser E_1, E_3, E_4, N_2, M, L.

16 por ende om. M, L; assi] asi E_3, E_4, E_5, N_1, N_2, P; muestra] muestran N_2, demuestra M, L; quarta] terçera P.

17 deste + nuestro H_1; la] las E_3; libertad] libertat E_1, E_2, E_4, liberlat E_5, libredat N_3, libertades E_3; + de la libertad N_2; leyes] leys P; fablan] fabla E_5, sabjan E_4.

18 esta] [.] E_4.

Critical Edition 7.24.11

Ley xj "Cómo los judíos deven andar señalados por que sean connoscidos"

Muchos yerros e cosas desaguisadas acaescen entre los cristianos e las judías e las cristianas e los judíos porque biven e moran de so uno en las villas e andan vestidos los unos assí como los otros. E por desviar los yerros e los males que podrién acaescer por esta razón, tenemos por bien e mandamos que todos quantos judíos e judías bevieren en nuestro señorío que trayan alguna señal cierta sobre sus cabeças, e que sea atal por que connoscan las gentes manifiestamientre quál es judío o judía. E si algund judío non levasse aquella señal, mandamos que peche por cada vegada que fuesse fallado sin ella diez maravedís de oro. E si non oviere de que los pechar, resciba diez açotes publicamientre por ello.

Critical Apparatus 7.24.11

1 *heading om*. P; xi] ix E_4, onzena M; señalados] sse*n*nallados E_1, senalados E_5, seynnalados N_3; que sean *om*. E_4, N_2; sean connoscidos] los conoscan M, L (conoz-).

2 connoscidos] conoscidos E_1, E_3, E_4, N_1, N_2, con*n*ocidos N_3, conoscudos E_5, conocudos E_2; + entre los c*rist*ianos N_1.

3 Muchos] Mmuchos E_1, Munchos N_1; cosas] cossas E_1; desaguisadas] desagujssadas N_2, E_1 (dess-); acaescen] acaesce E_5, N_3, accaesce E_2; cristianos + *e* los judios E_3, M.

4 las judías] los judios N_1, N_2, H_2; las judías e las cristianas *om*. E_1, E_4, P; judías e las cristianas e los judíos] c*rist*ianas *e* los judios *e* las judias H_1; las cristianas e los judíos] los iudios *e* las cristianas M; e_3 + a E_3; los judíos] las judias N_1, N_2, H_2, *om*. M; judíos] judio E_5.

5 de so uno] desuno P; so uno] consuno M, L; assí] asi E_4, E_5, N_1, N_2, P, M, *om*. E_3.

6 yerros e los males] males *e* los yerros E_3; yerros] yierros E_5; podrién] podrian E_2, N_2, P, M, L.

7 mandamos] madamos E_4.

8 e judías *om*. E_3; e] o M, L; bevieren] bivieren E_5, N_1, N_3, H_1, H_2, M, L, viujere*n* E_1, veujeren N_2, biujesen E_3, viviese*n* E_4, bisquiere*n* E_2; nuestro + Regno *e* E_3; señorío] seynnorio N_3; trayan] traygan M, L, traya E_4.

9 señal] senal E_4, seynnal N_3; sus] las E_4, N_1, H_2; cabeças] ca~~ssas~~beças [*sic MS*] E_1, cabecas E_5, çabecas P; e *om*. E_1, E_2, E_5, N_1, N_3, H_2, P; por que] q*ue* por E_1; + ella los E_1; que] q*ue*l H_1; + los P; connoscan] conoscan E_3, E_4, E_5, N_1, N_2, P, M, conozcan L.

10 manifiestamientre] manifestamie*n*tre E_5, N_3, manifiestamiente H_2, P, manifiestamente E_4, N_1, N_2, M, L, matjnjfiestame*n*te E_3; quál] quoal N_3; es + el E_3, H_2; o] *e* E_2, E_5, N_3; judía + q*ue* P; E si algund judío *om*. P; algund] algun E_1, E_2, E_5, N_3, H_1, H_2, algunt N_1.

11 judío + o judia H_1; non] no E_5, M; levasse] leuase E_4, E_5, N_1, P, leuare M, L, llebase E_3; + leuase E_5; aquella] aq*ue*la E_5, *om*. E_1; señal] seynnal N_3; mandamos] madanos E_4; peche] peche*n* P.

12 que] de q*ua*ntas H_1; fuesse] fuese E_3, E_4, E_5, N_1, P, fuere N_2, H_1, L; fallado] fayllado N_3; sin] sen E_2, en N_3; diez] dies E_4, x E_5, M, dos E_3, veynte (?) P; maravedís] Þ [=*abbr*.] E_4; de oro] doro E_2, E_5, N_3.

13 non] no E_5, M; pechar] peche E_3, N_2; + que E_2; resciba] reciba E_1, E_2, E_5, N_1, N_3, H_1, H_2; diez] x E_2, E_5, M; açotes] azot*es*

E_r, acotes E_2; publicamientre] publicamjente P, publicamente E_4, N_1, N_2, H_1, H_2, M, L.

14 ello] ella E_2, E_4, E_5, M, eylla N_3, ellos N_2.

HISTORICAL INTRODUCTION

> Resh Lakish has said: The
> Holy One, blessed be He,
> does not smite Israel unless
> He has created for them a
> healing beforehand.[1]

The fortunes of Spanish Jewry, commencing with the Roman occupation of _Hispania_ and concluding, for our purposes, in the last decade of the fifteenth century, are inextricably linked to the fluctuations of political and religious conditions in the course of a succession of secular and ecclesiastical powers.[2] Already in the early years of the Christian era, the Church had sought, at the council of Elvira (c. 300), to restrict Jewish-Christian contacts, including intermarriage between Jews and Christians, adultery with pagan or Jewish women, communal repasts, and the blessing of fields by Jews.[3] These conciliar decrees were to serve as a striking precedent for centuries of ecclesiastical legislation devoted to various facets of Judaism.

Yet, even before the Church had begun to concern herself legislatively with the Jewish question, Roman emperors and jurists had enacted laws designed to deal with a broad spectrum of issues relating to Jews. These juridical efforts continued after the conversion to Christianity of Constantine in 313, and found monumental expression in the *Codex Theodosianus* of Theodosius the Great (379-395) and the *Codex Justinianus* of Justinian (527-565). Even after the collapse of the Roman Empire in the late fifth century, many of the laws contained in the aforementioned compendia endured in barbarian recensions, most notably the *Lex Romana Visigothorum* of Alaric II (d. 507). The laws appearing therein concerning Jews constitute but a small number of the original Roman statutes, since many of the more obsolete ones had been expunged, but they do reaffirm the existing legal status of Jews.[4] In general, it seems that under the early Visigoths--the Arian Visigoths--Jews suffered relatively little persecution.

As Salo W. Baron has noted, however, the turning point in the Visigoths' posture towards the Jews occurred when Recaredo converted to Christianity in 587.[5] Thereafter the influence of the Church was clearly and repeatedly felt in the affairs of Iberian Jewry. In particular, the legislation enacted in the succession of councils held in Toledo in the sixth and seventh centuries was directed to a variety of issues concerning Jewish-Christian relations. Among the questions dealt with were Jewish ownership of Christian slaves, forced conversion of Jews to Christianity, Jewish activities during Easter, Jews in positions of authority over Christians, and the like. Though the rationale for the ofttimes discriminatory legislation in this period--at times "under royal prompting rather than on purely ecclesiastical initiative"--remains open to debate, there is no doubt that the Jews were subjected to many disabilities under the later Visigoth kings.[6] It is little wonder, then, that Spanish Jews welcomed the Muslim invader in 711 as a liberator.

If under the Visigoths Jews frequently found themselves stigmatized politically and religiously, even to the point of exile, during the early centuries of Muslim rule their lot was greatly improved. Those Jews who had departed the Peninsula for North Africa during periods of Visigothic persecution now returned to their homeland. Many of those who had remained in Spain had been compelled to adopt a clandestine religious practice--a fateful foreshadowing of later crypto-Judaism--but were at last able to worship openly.

This Golden Age of Spanish Jewry shone particularly bright during the centuries of Umayyad rule (755-1031). Not only did Jews enjoy general economic prosperity, but many also rose to important posts in medicine, commerce, and government. In addition, the literary and artistic milieux of Andalucía, especially Córdoba, influenced generations of Jewish literati who often composed their works in Arabic. This devotion to things Arabic, however, did not diminish the Jews' study of their own language and religion. On the contrary, the Muslim concept of Arabic as a holy tongue--the language of the Koran--aroused in Jews a competitive urge to create literary works in Hebrew, their own sacred tongue. A revival of Hebrew as a medium for secular expression was thus fostered.[7]

Even after the fall of the Umayyad dynasty in the first half of the eleventh century, Jews continued to achieve notable success in government, the arts, and business. The various *reinos de Taifa*--the fragmented petty kingdoms resulting from the disintegration of the Umayyad dynasty--made extensive use of Jewish financiers, tax-farmers, and diplomatic advisers. At the same time, luminaries such as Baḥya ibn Pakuda, Moses ibn Ezra, Solomon ibn Gabirol, and Yehudah Halevi, composed enduring literary treatises in Arabic and Hebrew.

This religious tolerance and cultural efflorescence was, however, already fading by the beginning of the twelfth century. The Reconquest had by then made impressive territorial advances, and this Christian onslaught, combined with the disjointed political condition of the Muslim states, signalled a change once again in the fortunes of Spanish Jewry. Even the historical tolerance displayed by the Muslims towards Jews was abruptly swept aside as the Almohades, a fanatical Berber tribe, ravaged southern Spain in the early twelfth century. In the resulting persecution, some Jews were forced to convert, while others, including the family of the renowned Maimonides, sought refuge in exile. The Almohade terror was short-lived, however, for by now the Christian Reconquest brought relief to the beleaguered Jews.

Although the Reconquest traditionally began at the battle of Covadonga in 718, it was not until the late eleventh century that the Christians were sufficiently unified to effect a concerted effort against the Muslim infidel. From that time, however, the important victories of Alfonso VI, including the capture of Toledo in 1085, and the decisive conquests of Fernando III, el Santo, among them the taking of Córdoba (1236), Murcia (1243), and Sevilla (1248), tilted the balance of territorial supremacy in favor of the Christian battlers.

At the beginning of the Reconquest Jews found themselves in a privileged position, since Christian rulers often used them to colonize towns vacated by the departing Moors. The charters granted the Jews contained tolerant provisions, and thus they were able to flourish economically under the direct protection of the king. Indeed, as the Fuero de Teruel declares: "Nam iudei servi regis sunt et semper fisco regio deputati."[8] This adhesion to central authority--an advantage for both monarch and Jews--was characteristic of medieval Jewish policy and a status Spanish Jews sought continually to preserve.[9] While they were often successful in maintaining this relationship, internecine conflicts between the monarch and nobles placed the Jews in a precarious position, since the nobles were envious of the Jews' privileged standing and concerned with the resultant economic competition.

This tension was particularly acute during the reign of Alfonso X, el Sabio (1252-1284). Of all medieval Spanish monarchs, Alfonso most overtly surrounded himself with Jews, and this for a number of reasons. Alfonso's evident predilection for learning and culture--at times at the expense of competent administration--required that talented Jews participate in tasks related to the diffusion of works of Hebrew or Arabic origin. On a more pragmatic level, Alfonso employed Jews as taxfarmers, a particularly onerous labor considering the prevalent attacks on the central authority. Late in life, Alfonso exacted exorbitant taxes from Jews and then had his economic adviser, Don Çag de la Maleha, arrested.[10]

Nevertheless, in spite of increasingly antipathetic attitudes and policies towards Spanish Jewry, Alfonso's general posture concerning Jews is characterized by relative tolerance. This is evident not only in the Alphonsine legislation itself, but also in comparison with the Jewish policies pursued by contemporaneous European monarchs. Despite what we might perceive as patently restrictive attitudes towards Jews on the part of Alfonso, when viewed in historical perspective, his position is perhaps best characterized as one of restrained tolerance.

In sum, one may aver that Christian attitudes concerning Jews were directly dependent upon two factors: first, the Jews' political and economic benefit to a given monarch or to a state and, second, the multifarious role of the Church in religious and political affairs. In the first instance, Christians early recognized the administrative, linguistic, and commercial capabilities of Jews, and thus frequently placed them--in blatant violation of canon law--in positions of great authority. Secondly, as the Reconquest advanced with ever-increasing fervor, the condition of the Jews, even though they were *servi camerae*, was bound to be affected by ecclesiastical attitudes and policies which often manifested themselves in political and social terms. In particular, the formation of the papal Inquisition, and the concomitant rise of the mendicant orders in the thirteenth century, signalled an ominous change in the tolerated status Jews once enjoyed. Whether the salvation of the Jews in times of gravest crisis was providentially ordained--as the Talmud affirms--or fortuitously occurred--as moderns opine--nonetheless, by 1497 the remedy for the ills afflicting Spanish Jewry lay outside the Iberian Peninsula.

NOTES

[1] דאמר ריש לקיש אין הקדוש ברוך הוא מכה את ישראל אלא אם כן בורא להם
רפואה תחילה

Megillah 13b. The attempt to comprehend and explain the seemingly inexplicable vicissitudes of history, particularly the alternating periods of prosperity and persecution, is patent in Abraham ibn Daud's Sefer ha-Qabbalah. "Ibn Daud did not conceal the identity of his motives with those of the more ancient homilists. Time and again he proclaimed in the clearest terms that the purpose of historiography is to bring consolation to the despised and persecuted nation of which he was a member" (Gerson Cohen, ed. [London: Routledge & Kegan Paul, 1967], p. 213).

[2] The notes to this survey will be limited to the most important works, since the Commentary contains a detailed examination of the points here touched upon.

[3] As James Parkes notes, the decisions reached at the council of Elvira possessed only local significance, though at least some of the issues extended beyond the Iberian Peninsula (The Conflict of the Church and the Synagogue: A Study in the Origins of Antisemitism [New York: Atheneum, 1977], p. 174).

[4] For a valuable survey of Roman legislation dealing with Jews, see Jean Juster, *Les Juifs dans l'empire romain: Leur condition juridique, économique et sociale*, 2 vols. (Paris: Librairie Paul Geuthner, 1914); and Parkes, *The Conflict of the Church and the Synagogue*. Note, also, Salo W. Baron, *A Social and Religious History of the Jews*$_2$, III (New York: Columbia University Press, 1957), pp. 33-46; esp. 33-6.

[5] *A Social and Religious History*, III, p. 36.

[6] *A Social and Religious History*, III, p. 44.

[7] See, in this regard, Eliyahu Ashtor, *The Jews of Moslem Spain*, I (Philadelphia: Jewish Publication Society of America, 1973), pp. 228-63; and Ivan G. Marcus, "The Jewish Minority Experience in Medieval Spain," *Response*, 40 (1981), 66-7.

[8] Cited in Yitzhak Baer, *A History of the Jews in Christian Spain*, I (Philadelphia: Jewish Publication Society of America, 1978), p. 395.

[9] A situation pointed out by Yosef H. Yerushalmi in *The Lisbon Massacre of 1506 and the Royal Image in the "Shebet Yehudah"* (Cincinnati: Hebrew Union College, 1976), pp. xi, 37ff.

[10] For an appreciation of Alfonso's attitude towards the Jews of his time, see Baer, *A History of the Jews in Christian Spain*, I, pp. 111-130; and José Amador de los Ríos, *Historia social, política y religiosa de los judíos de España y Portugal* (Madrid, 1875-6; repr. Madrid: Aguilar, 1960), pp. 237-66.

Commentary 7.24.0 (Introduction)

As is his practice in other sections of the Siete Partidas, Alfonso X provides a concise introduction to the actual legislation of Book VII, title xxiv, "De los judíos."[1] In this preface, Alfonso first notes the historical precedent for the Jews' legal status among Christians. Indeed, although the opening statement of title xxiv records the traditional declaration of Jewish unbelief, it likewise patently and firmly establishes the tolerated status of Jews in Christian society:

> Judíos son una manera de omnes que como quier que non creen la fe de Nuestro Señor Jhesu Christo, peró los grandes señores de los cristianos siempre sofrieron que beviessen entre ellos.

While at first it may appear that Alfonso's use of the word "sofrieron"[2] mitigates the force of Jewish servitude or bondage--both within a religious and a political context--the conclusion of the first law obviates any such speculation.[3] Here the word "sofrieron" is employed, as in the Introduction, but in Law 1 it figures within the context of the theological formulation of Jewish bondage to Christians:

> E la razón por qué la eglesia e los emperadores e los reyes e los otros príncipes sofrieron a los judíos bevir entre los cristianos es ésta: por que ellos beviessen como en cativerio para siempre e fuesse remembrança a los omnes que ellos vienen del linaje daquellos que crucificaron a Nuestro Señor Jhesu Christo.

The traditional Church position was that Jews had forfeited their political freedom and spiritual claims when they rejected and crucified Jesus. During the twelfth and thirteenth centuries, especially, various popes declared that the Church allowed the continued existence of the "perfidious"[4] Jews among Christians for two reasons. First, the presence of the Jews testified to the truth of the Christian faith. The *Constitutio pro Judaeis*, promulgated numerous times in the course of the twelfth and thirteenth centuries, and in this instance enacted by Innocent III, expresses forcefully the Church's reasoning: "Licet perfidia Judaeorum sit multipliciter improbanda, quia tamen per eos fides nostra veraciter comprobatur. . . ."[5] Similarly, Innocent IV, in a bull directed to the archbishop of Vienne, declared that a remnant of the Jews had been spared as a testimony to the saving passion of Jesus Christ:

> Si diligenter attenderet religio Christiana et recte discuteret examine rationis quam inhumanum sit et dissonum pietati ut reliquias Judeorum, quibus Salvatoris benignitas sue salutifere passionis mortisque victricis relictis testibus salutis gratiam repromisit, variis affligat molestiis vel diversis gravaminum conterat nocumentis, non solum ab ipsorum injuria manus retraheret, verum etiam eis, quos habet quasi tributarios, etc.[6]

It is thus apparent that, according to papal thinking, the very existence of the Jews constituted irrefutable proof of the veracity of Christianity and imbued the Church with a more complete understanding of her salvific mission.[7]

A second reason the Church permitted Jews to reside among--and in subjection to--Christians is that it was felt to be only proper that Jews should suffer servitude as punishment for their alleged participation in the death of Christ.

> Blasphematores enim nominis Christiani non debent a Christianis principibus in oppressionem servorum Domini confoveri, sed potius comprimi servitute, qua se dignos merito reddiderunt cum in illum manus injecere sacrilegas qui veram eis conferre venerat libertatem, super eos et filios suos esse ipsius sanguinem conclamantes.[8]

Alfonso's reliance upon ecclesiastical sources for much of the *Siete Partidas* is well documented.[9] In fact, religious dicta concerning the theological status of Jews under Christian authorities assuredly provided theoretical and actual precedents for Alfonso's own formulation of the legal standing of the Jews in Christian Spain. In this regard, the introductory lines of Innocent III's famous bull to the king of France, "Etsi non displiceat Domino, sed ei potius sit acceptum ut *sub catholicis regibus et principibus christianis vivat*. . .,"[10] may have been the inspiration for Alfonso's declaration that "los grandes señores de los cristianos siempre sofrieron que beviessen [los judíos] entre ellos."

Alfonso X was also undoubtedly aware of secular formulations of the relationship between Christians and Jews. The *Fuero de Teruel* (1176), for instance, states that "Quia vero judei fere in terris omnibus christianorum principium subjacent servituti. . ."[11] Only a few years later, Alfonso VIII declared in the *Fuero de Cuenca* (1189-1190) that "Nam Iudei servi regis sunt et fisco deputati."[12] In these and other such charters we witness a close relationship between the Christian king who grants legal concessions and the Jews who receive these privileges.

It is important to note that the fueros do not normally make reference to Jewish servitude in theological terms; i.e., there are few allusions to Jewish participation in the crucifixion of Christ and the resultant bondage of Jews to Christians.[13] There are at least two explanations for this omission.[14] In the Iberian Peninsula Jews had received, since the eleventh century, charters from the kings of the various reinos as an inducement to repopulate towns and lands captured from the Moors in the course of the Reconquest.[15] In granting charters to Jews, the monarchs delineated the freedoms Jews would enjoy under their new privileges. According to some charters, at least during the eleventh and twelfth centuries, Jews enjoyed roughly equal status with Christians under the law. Reference to Jewish culpability in the death of Christ would not, therefore, have been appropriate in a charter granting political and economic concessions.

A second explanation is that, in general, the legislation of the fueros is highly pragmatic. In almost all cases, the laws are designed to deal with specific, every-day situations requiring explicit solutions.[16] On the other hand, far-ranging legislation, such as the Siete Partidas, not only devotes attention to particular legal questions, but, more importantly, provides a theoretical foundation for the individual laws. Thus, in title xxiv, Alfonso employed well-established theological arguments to justify a sociopolitical posture: the subjugation of Jews by Christians.[17]

The somewhat favorable tenor of the reference to Jews being allowed to live under Christian rule is interrupted by the immediately subsequent linking of Jews to the soothsayers and diviners dealt with in the preceding title, "De los agoreros, et de los sorteros, et de los otros adevinos, et de los hechiceros et de los truhanes." Just as the latter are guilty of mocking God by their attempts to discover knowledge hidden from man, so the Jews are culpable for their rejection of the visible divine presence sent by God to redeem sinners.

> Onde pues que en el título ante deste fablamos de los adevinos e de los otros omnes que tienen que saben las cosas que an de venir, que es como manera de despreciamiento de Dios, queriéndose egualar con él en saber los sus fechos e las sus poridades, queremos aquí dezir de los judíos que contradizen e denuestan el su fecho maravilloso e santo que él fizo quando embió el su fijo Nuestro Señor Jhesu Christo en el mundo para salvar los pecadores.

This passage is noteworthy, not only because the murderous Jews are associated with the presumptuous diviners, but also because the former are characterized as hard-hearted and disputatious in their rejection of the Christian Messiah. The reference here to the Jews who "contradizen e denuestan"[18] is no doubt an allusion to the religious debates between Jews and Christians in the Middle Ages.[19] Alfonso X is here echoing a complaint voiced over the centuries by churchmen who railed against the recalcitrant Jews who refused to believe the verities of the Christian faith. This *caecitas Judaeorum* is made all the more patent by the contrast with the audacious desire of the diviners to have their eyes opened to the future. Both sins, stubborness and presumption, are soundly condemned by Alfonso.

The remainder of the Introduction is devoted to a rapid survey of the specific legal matters to be treated in title xxiv. The agenda includes only legislation designed to limit Jewish activities or to protect Christians, including recent converts to Christianity; no mention is made of the three important measures enacted to protect Jews and Jewish institutions: limited tolerance of the synagogue and synagogue services (Law 4), respect for the Jewish Sabbath (Law 5), and prohibition of forced conversion to Christianity (Law 6). Indeed, Alfonso also omits mention of several important statutes appearing in the last third of the title.[20]

In sum, the Introduction serves two functions. First, it states that Christian authorities have traditionally allowed Jews to live among Christians, in spite of the Jews' unbelief. Second, it contains an enumeration, although incomplete, of the specific laws to be discussed in the present title, omitting the overtly tolerant laws, as well as three other statutes.

NOTES (7.24.0)

[1] The introduction to title xxiv provides a brief theoretical foundation for the subsequent legislative material. In fact, the same could be said for many other portions of the Siete Partidas. In the case of the laws found in Book VII, however, the introduction to the various titles frequently establishes the general tone of the succeeding legislation. In Book VII, title xvii (VII.xvii), "De los adulterios," for example, Alfonso thus introduces his topic: "Uno de los mayores yerros que los homes pueden facer es adulterio, de que non se les levanta tan solamente daño, mas aun deshonra." Title xxvi, "De los hereges," commences in a similar condemnatory vein: "Hereges son una manera de gente loca que se trabajan de escatimar las palabras de nuestro señor Jesucristo. . ."

[2] 'Soportar', 'tolerar', 'aguantar' (Joan Corominas, Breve diccionario etimológico de la lengua castellana, 3rd ed. [Madrid: Gredos, 1976], p. 547).

[3] The theory, if not always the actual designation, of Jews as servi camerae nostrae, was widely accepted throughout medieval Western Europe, so that Jews, and by extension their property,

were considered to belong to the king. The idea, first formulated in a legal sense at Toledo XVII (694) that all Jews were "subject to perpetual serfdom" (*perpetuae subjectae servituti*), was developed in the twelfth century by Frederick I and Frederick II (Salo W. Baron, *A Social and Religious History of the Jews*, IX, 2nd ed. [New York: Columbia University Press/ Philadelphia: Jewish Publication Society of America, 1965], p. 136). The concept was more fully elaborated in the twelfth and thirteenth centuries as popes sought to increase their spiritual and temporal authority. Certainly, as Solomon Grayzel has indicated, the theory that Jews were royal property ". . . gave meaning to the phrase of which popes were fond, that the Church was the legitimate wife, whereas the Synagogue was the slave" (*The Church and the Jews in the XIIIth Century*, rev. ed. [New York: Hermon Press, 1966], p. 53). For comprehensive treatments of the political-legal status of Jews under medieval European monarchs, see, *inter alios*, José Amador de los Ríos, *Historia social, política y religiosa de los judíos de España y Portugal* (Madrid, 1875-6; repr. Aguilar, 1960); Yitzhak Baer, *Studien zur Geschichte der Juden im Königreich Aragonien während des 13. und 14. Jahrhunderts* (Berlin: Emil Ebering, 1913), pp. 11-16; *A History of the Jews in Christian Spain*, I (Philadelphia: Jewish Publication Society of America, 1966), pp. 85-90; Grayzel, *The Church and the Jews*, pp. 49-59, 348-56; Georg Caro, *Sozial- und Wirtschaftsgeschichte der Juden im Mittelalter und der Neuzeit* (Frankfurt, 1920-24; repr. Hildesheim: Georg Olms, 1964); Gavin I. Langmuir, "The Jews and the Archives of Angevin England: Reflections on Medieval Anti-Semitism," *Traditio*, 19 (1963), 183-244; Baron, *A Social and Religious History of the Jews*, IX, pp. 135-92; "'Plenitude of Apostolic Power' and Medieval 'Jewish Serfdom,'" in *Ancient and Medieval Jewish History: Essays*, ed. Leon A. Feldman (New Brunswick, N.J.: Rutgers University Press, 1972), pp. 284-307 (originally published in Hebrew in *Sefer ha-Yobel le-Yitzhak Baer*, ed. Salo Baron, et al. [Jerusalem: Historical Society of Israel, 1960], pp. 102-24); "Medieval Nationalism and Jewish Serfdom," in *Studies and Essays in Honor of Abraham A. Neuman*, ed. Meir Ben-Horin, et al. (Leiden: Brill, 1962; repr. in *Ancient and Medieval Jewish History: Essays*, pp. 308-22; Guido Kisch, *The Jews of Medieval Germany: A Study of Their Legal and Social Status*, 2nd ed. (New York: KTAV, 1970); Haim H. Ben-Sasson, ed., *A History of the Jewish People* (Cambridge, Mass.: Harvard University Press, 1976), pp. 477-89.

[4] As Grayzel notes (*The Church and the Jews*, p. 92), the term refers both to "distortion of the faith" and "a deliberate attempt to deny Jesus." See, in addition, Erik Peterson, "Perfidia Iudaica," *Ephemerides Liturgicae*, n.s. 10 (1936), 296-308; John M. Oesterreicher, "Pro Perfidis Judaeis," *Theological Studies*, 8 (1947), 80-96; Bernhard Blumenkranz, "Perfidia," *Archivum Latinitatis Medii Aevi*, 22 (1951-52), 156-70; Edward A. Synan, *The Popes and the Jews in the Middle Ages* (New York: Macmillan Co./ London: Collier-Macmillan Ltd., 1965), pp. 37, 41, 92, 122.

[5] *Patrologiae cursus completus, series latina*, J. P. Migne, ed., 214 (Paris: Garnier, 1855), col. 864. The decree goes on to state that ". . . non sunt a fidelibus graviter opprimendi, dicente

propheta: Ne occideris eos, ne quando obliviscantur legis tuae, ac si diceretur apertius: Ne deleveris omnino Judaeos, ne forte Christiani legis tuae valeant oblivisci, quam ipsi non intelligentes, in libris suis intelligentibus repraesentant."

[6] E. Berger, *Les Registres d'Innocent IV* (Bibliothèque des écoles françaises d'Athenes et de Rome), I (Paris: E. Thorin, 1884), pp. 420-21 (no. 2815).

[7] See no. 5, as well as Grayzel, *The Church and the Jews*, p. 259.

[8] The excerpt is from Innocent III's bull to the Count of Nevers, 17 January 1208 (*PL*, 215, col. 1291).

[9] See, for instance, J. Giménez y M. de Carvajal, "El *Decreto* y las *Decretales*, fuentes de la primera *Partida* de Alfonso el Sabio," *Anthologica Annua*, 2 (1954), 239-48; "San Raimundo de Peñaforte y las *Partidas* de Alfonso el Sabio," *Anthologica Annua*, 3 (1955), ; Miguel Angel Orti Belmote, "Glosas a la legislación sobre los judíos en las *Partidas*," *Boletín de la Real Academia de Córdoba de Ciencias, Bellas Letras y Nobles Artes*, no. 72 (1955), 41-66; E. Martínez Marcos, "Fuentes de la doctrina canónica de la IV *Partida* del Código del Rey Alfonso el Sabio," *Revista Española de Derecho Canónico*, 18 (1963), 897-926.

[10] *PL*, 215, col. 499.

[11] Cited in Baer, *Studien zur Geschichte der Juden im Königreich Aragonien*, p. 15.

[12] George H. Allen, *Forum Conche, Fuero de Cuenca. The Latin Text of the Municipal Charter and Laws of the City of Cuenca, Spain*, II (Cincinnati: University Press, 1909-10), p. 65.

[13] By contrast, medieval Spanish literature contains many pejorative references to Jews. See Antonio Portnoy, *Los judíos en la literatura española medieval* (Buenos Aires: Instituto Científico Judío, 1942); Seymour Resnick, "The Portrayal of the Jew in Medieval Spanish Literature," *Hispania*, 34 (1951), 54-8; Kenneth R. Scholberg, "Minorities in Medieval Castilian Literature," *Hispania*, 37 (1954), 203-8; *Sátira e invectiva en la España medieval* (Madrid: Gredos, 1971), esp. pp. 331-60; Charles F. Fraker, Jr., "Judaism in the *Cancionero de Baena*," in *Studies on the "Cancionero de Baena"* (Chapel Hill: University of North Carolina Press, 1966), pp. 9-62; Gilbert Smith, "Christian Attitudes Toward the Jews in Spanish Literature," *Judaism*, 19 (1970), 444-51; Albert I. Bagby, Jr., "The Jew in the *Cantigas* of Alfonso X, el Sabio," *Speculum*, 46 (1971), 670-88; Stanley E. Rose, *Poesía antijudía y anticonversa en la poesía artística del siglo XV en España*, Unpubl. Ph.D. Diss., Catholic University of America, 1976 (*DAI*, 36 [1976], 7464A).

[14] On the nature of the *fueros*, see Alfonso García Gallo, *Curso de historia del derecho español*, 3rd ed., I (Madrid: Gráfica Administrativa, 1948), pp. 163-71; *Manual de historia del derecho español*, 2 vols. (Madrid: Artes Gráficas y Ediciones, 1959); J. Cerdá Ruiz-Funes, "Fueros municipales," in *Nueva enciclopedia jurídica*, X (Barcelona: F. Seix, 1960), pp. 395-478; Gunnar Tilander, "Fuentes jurídicas," in *Enciclopedia lingüística hispánica*,

II (Madrid: C.S.I.C., 1967), 447-60; E. N. Van Kleffens, *Hispanic Law Until the End of the Middle Ages* (Edinburgh: Edinburgh University Press, 1968), pp. 123-31, 208-10, 237-50. Alfonso X deals with the concept of *fuero* in the first *Partida*, title ii, Law 7: "Fuero es cosa en que se encierran estas dos maneras que habemos dicho, uso et costumbre, que cada una dellas ha de entrar en el fuero para ser firme: el uso porque los homes se fagan á él et lo amen; et la costumbre que les sea asi como en manera de heredamiento para razonarlo et guardarlo."

[15] Baer, *A History of the Jews*, I, pp. 78-90.

[16] For example, with regard to Jewish-Christian relations, the following concrete situations received attention in the *fueros*: "De debdores de los iudíos," "De pleyto entre cristiano et jodío" (Max Gorosch, ed., *El fuero de Teruel*, Leges Hispanicae Medii Aevi [Uppsala: Almqvist & Wiksells, 1950]), pp. 132, 312; "Mugier que con iudio o con moro fuere presa," "Del cristiano que al iudio firiere o·l matare" (J. Roudil, ed., *El fuero de Baeza: edición, estudio y vocabulario* [The Hague: Van Goor zonen, 1962]), pp. 109, 189; "De qui mata iudío o iudío a cristiano" (Gunnar Tilander, ed., *Los fueros de la Novenera según el manuscrito 944 de la Biblioteca de Palacio con las variantes del manuscrito 13331 de la Biblioteca Nacional de Madrid* [Uppsala: Almqvist & Wiksells, 1951]), p. 100.

[17] Grayzel, *The Church and the Jews*, pp. 49-59.

[18] The key words *contradizen* and *denuestan* (L. *contradicere* 'to oppose' and *deshonestare* 'to insult') were no doubt selected to convey the traditional sense of Jewish antipathy toward Christianity.

[19] Américo Castro, in his brief edition and study of the "Disputa de un cristiano y un judío" (*Revista de Filología Española*, 1 [1914], 173-80), states that this work is the sole extant representative of Jewish-Christian disputation in medieval Spanish literature. The topics debated by the disputants are common to medieval Jewish-Christian polemics, though the exchange is more acrimonious than in most other European examples of the debate genre. Castro dates the "Disputa" in the first half of the thirteenth century, roughly around the beginning of the reign of Alfonso X.

[20] The laws omitted from the agenda are as follows: Law 3: "Que ningund judío non puede aver oficio nin dignidad para poder apremiar a los cristianos," Law 4: "Cómo pueden aver los judíos sinagoga entre los cristianos," Law 5: "Cómo non deven apremiar a los judíos en día de sábado e quáles juezes los pueden apremiar," Law 8: "Cómo ningund cristiano nin cristiana non deve fazer vida en casa de judío," Law 9: "Qué pena meresce el judío que yaze con cristiana," Law 11: "Cómo los judíos deven andar señalados por que sean conoscidos."

One item in the agenda, ". . . quáles son aquellos juezes que los pueden apremiar por maleficios que ayan fechos o por debdo que devan," occupies nearly as much space as does the actual formulation of the statute itself in Law 5. The decree appears within the context of the larger question of legal suits on the Sabbath, though the issue of appropriate judges never receives more than cursory attention.

Commentary 7.24.1

The initial law of title xxiv is essentially a terse description of religious and historical aspects of Judaism.[1] Beginning with a forensic definition, Alfonso asserts that Jews adhere to a literal interpretation of the Mosaic Law, practicing circumcision and observing other precepts of that code:

> Judío es dicho aquél que cree e tiene la ley de Moysén segund suena la letra della e que se circuncida e faze las otras cosas que manda essa su ley.

Significantly, Alfonso does not disparage the Jews' literal understanding of the Torah, i.e., the five books of Moses. Not so restrained were ecclesiastical authorities who constantly criticized the Jews' spiritual blindness and, even more reprehensible, their contumacious refusal to perceive the hidden, supra-literal truths of the Scriptures. The attitude of medieval Christian apologists has been observed by Edward Synan:

> Jewish devotees of the law and of its external rituals doomed themselves to remain slaves of the "letter"; inhibited by the "literal" sense of their own polyvalent Scriptures, they were blind to the more profound implications of those texts in their materiality. In short, the Jews seemed to make ultimate reality of what is in truth but its sign.[2]

Moving from a religious to an historical plane, Alfonso declares that the word "judío" is derived from "Judá," the name of the tribe here claimed to be "más noble e más esforçado que todos los otros tribus."[3] Judah is further praised for its conspicuous bravery in battle: ". . . en las batallas los daquel tribu overion siempre las primeras feridas,"[4] and is esteemed because from it the Jewish kings were chosen: ". . . daquel tribu avien a esleer rey de los judíos."[5]

It may be that, in addition to the Biblical testimony of Judah's valor and standing, Alfonso was aware of the tradition according to which Spanish Jewry traced its descent from the tribe of Judah.[6] In any case, the courage and exalted position of Jews is unequivocally praised by Alfonso.

These positive qualities of Jews--their venerable legal tradition, valor on the field of battle, and political preeminence--are nevertheless subordinated to the theological reason as to why Christian authorities have traditionally allowed Jews to live among Christians:

> E la razón por qué la eglesia e los emperadores e los reyes e los otros príncipes sofrieron a los judíos bevir entre los cristianos es ésta: por que ellos beviessen como en cativerio para siempre e fuesse remembrança a los omnes que ellos vienen del linaje daquellos que crucificaron a Nuestro Señor Jhesu Christo.

Two changes have occurred, however, in the restatement of this legal precedent in Law 1. First, in the Introduction, Alfonso avers only that "los grandes señores de los cristianos" have permitted Jews to live among Christians. In Law 1, on the other hand, he has expanded the assertion to include "la eglesia e los emperadores e los reyes e los otros príncipes" among those who have allowed Jews to dwell among them. Second, whereas in the Introduction Alfonso emphasizes the fact that, in spite of their unbelief, Jews are permitted to live among Christians, in Law 1 he employs the familiar theological argument that Jews are to be suffered so that they will remain an enduring testimony to their guilt in crucifying Christ.[7] Once again the words of Innocent III, extracted from the Liber Extra (1234), the most important medieval decretal compilation, are instructive:

> Etsi Iudaeos, quos propria culpa submisit perpetuae servituti, quum Dominum crucifixerint, quem sui prophetae praedixerunt ad redemptionem Israel in carne venturum, pietas Christiana receptet, et sustineat cohabitationem illorum, etc.[8]

In a similar vein Innocent IV wrote the king of Navarre in 1246:

> Religioni convenit Christiane Judeis eo libentius contra persecutores ipsorum debitum prestare subsidium quo specialius sunt in testimonium Orthodoxe Fidei reservati.[9]

Given the dual rationale for allowing Jews to reside among Christians--"por que ellos beviessen como en cativerio para siempre e fuesse remembrança a los omnes que ellos vienen del linaje daquellos que crucificaron a Nuestro Señor Jhesu Christo"--Alfonso's mention of a broad spectrum of Christian authorities who have historically tolerated Jews to live among them is relegated to a position of secondary importance. Indeed, what Alfonso clearly indicates is that both Church and State accept the premise that Jews are consigned to a condition of servitude as a consequence of their heinous crime. In sum, while Law 1 begins with an encomium of Jewish valor, it concludes with a condemnation of Jewish atrocity and a justification for the Jews' present servile position.

Throughout title xxiv, Alfonso X relies heavily upon canonical sources for the general tenor of his Jewish-Christian legislation, as well as for the precise wording of certain sections. In the case of Law 1, for example, it is apparent that a good part of the basically narrative portion of the statute is taken, almost verbatim, from Raimundo de Peñaforte's Summa de Paenitentia, Book I, title iv, as the following comparison indicates.

> Judío es dicho aquél que cree e tiene la ley de Moysén segund suena la letra della e que se circuncida e faze las otras cosas que manda essa su ley. E tomó este nombre del tribu de Judá que fue más noble e más esforçado que todos los otros tribus. E demás avie otra mejoría, que daquel tribu avien a esleer rey de los judíos. E otrossí en las batallas los daquel tribu ovieron siempre las primeras feridas.

> Iudaei dicuntur qui legem mosaicam ad litteram tenent, se circumcidendo et alia legalia faciendo. Dicuntur iudaei a nomine dignioris tribu, scilicet a tribu Iudae patriarchae quae inter tribus alias bellicosior, primam aciem in bellis, et regis privilegium obtinebat, scilicet ut de ea sola tribu crearetur rex. . .[10]

In Raimundo de Peñaforte's concise definition of Jews, Alfonso X found a succinct etymologico-historical description of the primary subject of title xxiv.

In sum, Law 1 may be divided into two main parts. In the first, Alfonso notes briefly the Jewish adherence to a venerable legal tradition, and praises the Jews for certain ethical and political qualities. The tenor of the first law is so far essentially benign, or at least neutral with regard to the Jews' reliance upon the Mosaic Law. This generally positive beginning, whose debt to canon law is patent, is followed by a declaration of the historical precedent of Christian tolerance towards Jews. This solicitude, however, is evidently not the result of any of the praiseworthy qualities enumerated by Alfonso in the first half of the law. Rather, Alfonso once again relies upon canon law to provide a fitting rationale for Christian tolerance of Jews: that they remain forever in captivity and serve as a reminder to all that they are of the lineage of those who crucified Jesus.

The reliance upon canon law in Law 1 of "De los judíos" suggests that the official understanding of Jews and Judaism, and the consequent Alphonsine legal posture towards Jews in Spain, are largely theologically based; it will become evident below that theology and canon law constitute essential ingredients of the remaining 10 laws in title xxiv regulating Jewish-Christian relations.

NOTES (7.24.1)

[1] This type of introduction is found throughout the *Siete Partidas*, especially in the seventh *Partida* where Alfonso takes particular pains to give precise definitions of important terminology. Of the dozens of examples that could be adduced to demonstrate the similarity of composition of Title xxiv, Law 1, to other laws, the following are instructive: IV.i.1: "Qué cosa es desposorio et onde tomó este nombre;" V.xi.1: "Qué cosa es préstamo á que dicen en latin *commodatum*, et por qué ha asi nombre, et quién lo puede facer, et á quién et de qué cosas;" VII.xvii.1: "Qué cosa es adulterio, et onde tomó este nombre, et quién puede facer acusacion sobrél et á quáles."

[2] *The Popes and the Jews*, p. 150. Innocent III expressed the Christian position forcefully in a bull to the abbot and convent of Saint Mary de Pratt in Leicester (5 December 1199): "Quanto populus Judaicae caecitatis superficiem divinarum Scripturarum attendens et negligens puritatem medullae quae doctrinae spiritualis in se continet intellectum, damnabilius in sua contumacia perduravit et se ipsos adhuc involvi permittunt in barathro tenebrarum,

etc." (*PL*, 214, cols. 792-3). The notable thirteenth and early-fourteenth-century Catalonian apologist, Ramón Lull, begins his famous *Liber Predicationis contra Judeos* with a reference to Jewish adherence to the Law of Moses: "Quoniam iudei credunt esse in veritate per legem Moysi, allegando auctoritatem illius legis, et cum intellectus naturaliter sit iudex rationi, et iudei extant ad decem precepta, intendimus procedere tribus modis in libro esto, scilicet, cum auctoritatibus veteris Legis, et cum problemautibus et cum preceptis, probando quod iudei sunt in errore" (José M.ª Millás Vallicrosa, ed. [Madrid-Barcelona: C.S.I.C., Instituto 'Arias Montano, 1957], p. 71). Among the numerous passages in medieval Spanish literature that could be cited to illustrate the Christian attitude towards the Jews' literal reading of the Scriptures, the following by Gonzalo de Berceo (late twelfth to early-thirteenth century) is representative:

> ¡o gent ciega e sorda, dura de coraçón,
> nin quier creder la letra nin atender raçón.
>
> (*Los loores de Nuestra Señora*, 15 cd)

(Brian Dutton, ed., *Obras completas. III. El duelo de la Virgen, Los himnos, Los loores de Nuestra Señora, Los signos del juicio final* [London: Tamesis, 1975], p. 75.) The standard work on the subject of medieval artistic depictions of Jewish blindness to the light of Christianity is Wolfgang S. Seiferth, *Synagogue and Church in the Middle Ages: Two Symbols in Art and Literature* (New York: Ungar, 1970).

[3] Judah (Heb. Yehudah) first appears in Genesis xxix.35 where the term is commonly understood to signify "praise." The word is, however, probably more closely related to a Semitic root referring to low ground. See, "Judah," *Encyclopaedia Judaica*, X (Jerusalem: Keter Publishing House, 1971), col. 326. In the account of the Jewish wanderings in the Sinai Desert, Judah pitches her tents on the East, towards the rising sun (Numbers ii.1-9), and is assigned the first rank in the marching order (Numbers x.14-16). Interestingly enough, Judah is mentioned numerous times in aggadot (homiletic and folkloristic expositions in the Talmud and Midrash) as a notable warrior possessing extraordinary strength and clearly superior to his brothers. See, in addition, *EJ*, X, cols. 331-32; Louis Ginzberg, *The Legends of the Jews*, 6th ed., II (Philadelphia: Jewish Publication Society of America, 1946), pp. 31-7, 89-94, 103-10.

[4] Note, for example, Judges xx.18: "And the children of Israel arose, and went up to Beth-el, and asked counsel of God; and they said: 'Who shall go up for us first to battle against the children of Benjamin?' And the LORD said: 'Judah first.'" See, also, Judges i.1-4, 10, *et passim*.

[5] After the election of Saul from the tribe of Benjamin (I Samuel x), the monarchy, hereditary in nature, remained in the House of David. No doubt one of the reasons for Judah's primacy in the eyes of Christians was that from the Davidic line the Messiah, Jesus, was born (Luke ii.4).

[6] For an extensive account of this tradition, see Haim H. Ben-Sasson, "Exile and Redemption in the Eyes of the Generation of the Spanish Exiles" (Hebrew), in *Sefer ha-Yobel le-Yitzhak Baer*, pp. 216-27; and "The Generation of the Spanish Exiles on its Fate" (Hebrew), *Zion*, 26 (1961), 23-64. An early reference to this idea is found in the words of Ibn Ḥazm (994-1064) concerning the Karaites: "The Ananites are the adherents of Anan, descendant of David, of the tribe of Judah whom the Jews call Karaites and heretics." (Cited in Abraham ibn Daud, *Sefer ha-Qabbalah*, *The Book of Tradition*, Gerson D. Cohen, ed. [London: Routledge & Kegan Paul, 1967], p. xlvi.) In the epilogue to the *Sefer ha-Qabbalah*, Ibn Daud records that "There is a tradition current among the members of the community of Granada that they are descended from the inhabitants of Jerusalem, the holy city, from the tribes of Judah and Benjamin. . ." (p. 67). A later mention of the tradition appears in Solomon ibn Verga, *Sefer Shebet Yehudah*, A. Shohat, ed., intro. Yitzhak Baer (Jerusalem: Mossad Bialik, 1947), pp. 33, 54; Spanish translation, Francisco Cantera Burgos (Granada: López-Guevara, 1927).

[7] Bernard of Clairvaux, the renowned twelfth-century cleric (1090-1153), echoed the familiar argument that Jews merit their servile condition as punishment for their role in the crucifixion: ". . . there is no more dishonorable nor serious serfdom than that of the Jews; they carry it with them wherever they go, and everywhere they find their masters" (cited by Baron, *A Social and Religious History*, V, p. 129). Nevertheless, in the face of

anti-Jewish sentiments fomented by the Cistercian monk, Rudolph, Bernard cited the well-known passage in Psalms lix.12 in order to stem the misguided zeal of his coreligionist: "Deus ostendet mihi super inimicos meos; Ne occidas eos, nequando obliviscantur populi mei." In this regard, see David Berger, "The Attitude of St. Bernard of Clairvaux Toward the Jews," *Proceedings of the American Academy for Jewish Research*, 40 (1972), 89-108; also, "St. Peter Damian: His Attitude Toward the Jews and the Old Testament," *The Yavneh Review*, 4 (1965), 80-112.

[8] X 5.6.13. *Decretales Gregorii P. IX*, ed. Aemilius Friedberg (Leipzig: Bernhard Tauchnitz, 1881). All citations will be from this edition, unless otherwise indicated.

[9] Grayzel, *The Church and the Jews*, p. 260.

[10] Lib. I, tit. iv., "De iudaeis et sarracenis et eorum servis," §1 (Rome, 1603; repr. Farnborough, 1967). A similar description of Jews is found in the *Summa Aurea* of Hostiensis ("De iudaeis et saracenis et eorum servis," Lib. , tit. , §1, 2), and noted by López in the glosses incorporated into his edition of the *Partidas*: "Qui dicantur Iudaei. Hi qui ad literam Mosaicam legem tenent idest circuncidendo et ad alia legalia ad literam faciendo, ideo hi qui nimis adhaerent literae, iudaizare dicuntur. . . Et unde dicantur. A nomine dignioris tribu scilicet a tribu Iuda, quae inter alias bellicosior extitit et in bellis primam aciem et regni privilegium obtinuit scilicet ut de ea sola rex crearetur. . ." (Venice, 1574; repr. Torino: Bottega D'Erasmo, 1963), col. 1517.

Commentary 7.24.2

The historico-theological preliminaries of the introductory law and of Law 1 give way in Law 2 to the type of explicit legislation that will characterize the remainder of title xxiv. In Law 2 Alfonso treats four apparently disparate, but in actuality related, topics: blasphemy, proselytism, ritual murder, and Good Friday conduct. Indeed, the thrust of Law 2 is the proscription of blasphemy in its various manifestations: verbal insults, conversionary activities, and disparagement of Christian dogma and ceremonies.

The introductory lines of Law 2 follow logically from the preparatory legislation of Law 1, where Alfonso grants Jews, on the basis of historical precedent, the privilege of residing among Christians "como en cativerio." It is only reasonable, therefore, that the servile Jews should live humbly and passively, observing the tenets of their religion and avoiding any disparagement of the Christian faith.

> Mansamientre e sin mal bollicio deven fazer vida los judíos entre los cristianos, guardando su ley e non deziendo mal de la fe de Nuestro Señor Jhesu Christo que guardan los cristianos.

Alfonso's primary concern at this point is with blasphemous insults directed against Christians and their religion. Thirteenth-century authorities, secular as well as ecclesiastical, were assiduous in their attempts to prohibit real or presumed blasphemies. The first half of the thirteenth century, for example, witnessed the burning of the Talmud in France (1240) on grounds that it contained blasphemous passages.[1] In Germany, also, public blasphemies were outlawed, though the authorities appear to have been less concerned than their contemporaries in France with written blasphemies.[2] The Church was, of course, at the forefront of efforts to eradicate insults against Christianity. Not only did individual popes proclaim their indignation, but local and ecumenical councils also fulminated against blaspheming Jews. Canon 68 of Lateran IV is a prime example of conciliar response to Jewish affronts to Christianity:

> Illud autem districtissime inhibemus, ne in contumeliam Creatoris prosilire aliquatenus praesumant. Et quoniam illius dissimulare non debemus opprobrium, qui probra nostra delevit: praecipimus praesumptores huiusmodi per principes saeculares condignae animadversionis adiectione compesci, ne crucifixum pro nobis aliquatenus blasphemare praesumant.[3]

Secular rulers likewise prohibited Jews from insulting, either verbally or in writing, Christians or the Christian faith. Early legislation appears in the Fuero Juzgo,[4] where Jews who blaspheme against the Trinity are condemned to receive a series of penalties, including 100 lashes, decalvatio, enchainment, and exile.[5] The Fuero Real of Alfonso X prescribes a fine of ten maravedís and 100 lashes as punishment to those found guilty of defaming God, the Virgin, or any of the saints.[6] In 1263 James I, in an act recalling French attempts to expurgate alleged blasphemies from the Talmud, and on the advice of the Dominicans Raimundo de Peñafort and Arnaldo Segarra, ordered the Jews of his kingdom to expunge from their holy writings blasphemous references to Christ and the Virgin.[7]

Law 2 does not indicate that Alfonso X was particularly concerned with written blasphemies, since the statute reads "e non deziendo mal de la fe de Nuestro Señor Jhesu Christo" (emphasis mine). Although Alfonso would doubtlessly not have countenanced written blasphemies, his preoccupation with Jewish conversionary efforts and Good Friday disruptions leads one to conclude that he is dealing primarily with verbal insults.

Not only should Jews avoid impugning the Christian religion, but, even more importantly, they should refrain from proselytizing activities. The implicit connection between blasphemy and proselytism is made clear in the following declaration:

> Otrossí se deven mucho guardar de non predicar nin convertir a ningund cristiano que se torne judío alabando su ley e denostando la nuestra. E qualquier que contra esto fiziere deve morir por ende e perder lo que ha.

From the early centuries of the Christian era, Jews had been forbidden to proselytize. The Theodosian and Justinian Codes contain legislation interdicting proselytism by Jews, as well as voluntary conversion to Judaism. In addition, popes and councils were vigilant to suppress any conversionary activity on the part of Jews. (For more detailed information, see the Commentaries on Laws 7 and 10 of title xxiv.)

Alfonso, drawing upon well-established legal and theological precedents, forbids Jews from engaging in proselytizing ventures among Christians.[8] His immediate concern is, nevertheless, with the disparagement of Christianity in the course of these conversionary efforts. Here we no doubt have an allusion to the discussions and debates conducted between Jews and Christians during the Middle Ages.

These disputas, whether literary (as in the thirteenth-century "Disputa entre un cristiano y un judío") or actual (e.g., the famous Barcelona disputation between Naḥmanides and Pablo Christiani [1263], or the devastating "Disputa de Tortosa" [1413-1414]), were vigorous polemical exercises designed to defend or advance the Christian faith.[9] Jews themselves sometimes took the initiative in theological polemics with Christians. Though many such disputations have been lost--indeed, most were doubtless not even recorded--enough evidence exists to indicate that Jewish attacks on Christianity were often spirited and at times resulted in converts to Judaism.[10]

Alfonso, in accordance with the traditional penalty prescribed for proselytism, orders the death sentence for the guilty party. He furthermore orders the convicted Jew's property confiscated.

A more blatant, not to say sensational, form of blasphemy than hithertofore noted is described by Alfonso in the following selection from Law 2:

> E porque oymos dezir que en algunos logares los judíos fizieron e fazen el día del viernes santo remembrança de la passión de Nuestro Señor Jhesu Christo en manera de escarnio, furtando los niños e poniéndolos en cruz o faziendo ymágenes de cera e crucificándolas quando los niños non pueden aver. . .

The charge of ritual murder has its beginnings in the infamous case of William of Norwich (1144), the English lad who was reputedly crucified by the Jews in a parody of the crucifixion. Thereafter the indictment appears in France (1171) and Germany (1235). The first notice we possess of the charge of ritual murder in the Iberian Peninsula appears in the aforementioned "Disputa de un cristiano y un judío," in actuality a polemical work designed to impugn key tenets of the Jewish faith.[11] An account of ritual murder similar to that described by Alfonso X in the *Siete Partidas* exists in the *Cantigas de Santa Maria* by the same author.[12] A more extensive version of the same story is narrated by the thirteenth-century Riojan poet, Gonzalo de Berceo, in his *Milagros de Nuestra Señora*.[13] It is evident, then, that the charge of ritual murder was common in thirteenth-century Europe. The indictment itself never received papal endorsement and, in fact, various popes tried repeatedly to discredit the slanderous accusation.[14] In this they were largely unsuccessful, perhaps because the roots of the ritual murder charge were essentially popular, rather than theological.

Alfonso's prohibition of ritual murder is notable in at least two respects. First, the Spanish monarch dilutes the impact of the charge with the vague announcement that ". . . oymos dezir que en algunos logares los judíos fizieron e fazen el día del viernes santo remembrança. . .[15] The description thus appears to be founded largely on hearsay, and may even be based on non-Hispanic accounts.[16] Second, Alfonso orders that should such an atrocity occur anywhere in his kingdom, the culpable parties should be arrested and brought before the king who, once he has established the truth, will condemn them to death.

> . . . que si fama fuere daquí adelante que en algund logar de nuestro señorío tal cosa sea fecha, si se podiere averiguar, que todos aquéllos que se acertaren en aquel fecho que sean presos e recabdados e aduchos antel rey, e después que él sopiere la verdad deve los mandar matar aviltadamientre quantos quier que sean.

Once again the peculiar relationship between the Jews and their king is apparent. Because they are servi camerae, the Jews, when confronted with grave charges such as ritual murder, are to be adjudicated solely by the king. In this respect, European Jews held a privileged position and one which they sought constantly to strengthen. Thus, what appears at first glance to be harsh measure on the part of Alfonso, is, at least in part, a judicial aid to protect Jews from the capricious vulgus, the greedy bourgeois, and the envious nobility.

Not surprisingly, indictments of image desecration are intimately connected with Passion events and celebrations. Not only are Jews accused of the more serious outrages of profanation and blasphemy, but they are also charged with general disruption of Easter processions by chanting, throwing stones, wearing attire incommensurate with the solemnity of the occasion, and so forth. In the face of such charges, secular and ecclesiastical authorities enacted legislation to prevent disruption of Christian services, as well as to avert violent encounters during a potentially volatile time.

One of the first official decrees promulgated to deal with Jews during Christian religious festivities, especially Easter, Orléans III (538) affirms that "Quia Deo propitio sub catholicorum regum dominatione consistimus. . .," Jews should not appear among Christians for four consecutive days from Maundy Thursday to Easter Monday.[17] 45 years later the Council of Mâcon (canon 14) repeated the injunction, naming Childebert I (d. 558) as the originator of the decree.[18] Much later, Alexander III likewise decreed that on Good Friday Jews were to remain behind closed doors:

> Quia super his, unde nos in literis tuis de Iudaeis scripsisti, certum canonem non habemus, fraternitati tuae significatione praesentium intimamus, quod clero tuo in unum pariter convocato, generaliter tam nostra quam tua auctoritate interdicas, ut Iudaei ostia vel fenestras in die Parasceues aperta non habeant, sed clausa teneant tota die.[19]

Even more forcefully, Innocent III ordered that:

> In diebus autem lamentationis et dominicae Passionis in publicum minime prodeant, eo, quod nonnulli ex ipsis talibus diebus, sicut accepimus, et ornatius non erubescunt incedere, ac Christianis, qui sacratissimae passionis memoriam exhibentes lamentationis signa praetendunt, illudere non formidant. Illud autem districtissime inhibemus, ne in contumeliam Creatoris prosilire aliquatenus praesumant.[20]

Given the general focus of Law 2, it would appear that the concluding item is concerned, as is Innocent III's decree, with sacrilegious behavior on the part of Jews during Good Friday:

> Otrossí defendemos que el día del viernes santo ningund judío non sea osado de salir de su barrio, mas que estén ý encerrados fasta el sábado en la mañana. E si contra esto fizieren, dezimos que del daño e de la desonrra que de los cristianos rescebiessen, non deven aver ninguna emienda.

It may, of course, be argued that Alfonso is interested in protecting Jews from Christians during a period of intense religious emotion.[21] While this may have been a consideration, Alfonso's essential preoccupation in Law 2--prohibition of blasphemy against Christianity--indicates that his statute dealing with Good Friday is less an expression of tolerance than a concern with shielding Christianity from insults on the part of Jews.

NOTES (7.24.2)

[1] I. Loeb, "La Controverse de 1240 sur le Talmud," *Revue des Études Juives*, 1 (1880), 247-61; 2 (1881), 248-70; 3 (1881), 39-57; A. Yaari, *Srefat ha-Talmud be-Italiah* (Tel Aviv: A. Zioni, 1953); J. Rosenthal, "The Talmud on Trial," *Jewish Quarterly Review*, 47 (1956), 58-76, 145-66; Solomon Grayzel, "The Talmud and the Medieval Papacy," in *Essays in Honor of Solomon B. Freehof*, ed. W. Jacob, et al. (Pittsburgh: Congregation Rodef Shalom, 1964), pp. 220-45; *The Church and the Jews*, pp. 29-35; Synan, *The Popes and the Jews*, pp. 111ff.; Ch. Merchavia, *The Church Versus Talmudic and Midrashic Literature, 500-1248* (Hebrew) (Jerusalem: Mossad Bialik, 1970); Kenneth Stow, "The Burning of the Talmud in 1553, in the Light of Sixteenth Century Catholic Attitudes Toward the Talmud," *Bibliothèque d'Humanisme et Renaissance*, 34 (1972), 435-59; Baron, *A Social and Religious History*, IX, pp. 79-83.

[2] Kisch, *The Jews in Medieval Germany*, pp. 197-9.

[3] X 5.6.15.

[4] The *Fuero Juzgo* was translated from the Visigothic legal code, the *Forum Judicum*, under Alfonso X's direction.

[5] Libro XII, Título iii, Ley 2, "De los que denuestan la sancta Trinidad" (ed. Real Academia Española [Madrid: Ibarra, 1815]).

[6] Libro IV, Título ii, Ley 3.

[7] San Raimundo de Penyafort, *Diplomatario* (*Documentos, vida antigua, crónicas, procesos antiguos*), ed. José Rius Serra (Barcelona: Universidad de Barcelona, 1954), pp. 149-50 (no. CXVII).

[8] Conversion of non-Christians is discussed in the Commentary on Law 10.

[9] The following studies represent only a few of the important investigations devoted to the subject of medieval polemics: A. L. Williams, *Adversus Judaeos* (Cambridge: Cambridge University Press, 1935); Bernhard Blumenkranz, *Die Judenpredigt augustins: ein Beitrag zur Geschichte der jüdisch-christlichen Beziehunger in den ersten Jahrhunderten* (Basel: Helbing und Lichtenhahn, 1946); *Gisleberti Crispini Disputatio Iudaei et Christiani* (Utrecht: In Aedibus Spectrum, 1956); "Anti-Jewish Polemics and Legislation in the Middle Ages: Literary Fiction or Reality?," *Journal of Jewish Studies*, 15 (1964), 125-40; Jacob Katz, *Exclusiveness and Tolerance: Jewish-Gentile Relations in Medieval and Modern Times* (Oxford: Oxford University Press; repr. New York: Schocken, 1962), pp. 106-13; Haim H. Ben-Sasson, "Jewish-Christian Disputation in the

Setting of Humanism and Reformation," *Harvard Theological Review*, 59 (1966), 369-90; A. Funkenstein, "Changes in the Patterns of Christian Anti-Jewish Polemics in the Twelfth Century" (Hebrew, with English summary), *Zion*, 33 (1968), 125-44; Frank Talmage, *Disputation and Dialogue: A Reader in the Jewish-Christian Encounter* (New York: ADL & KTAV, 1975); David Berger, *The Jewish-Christian Debate in the High Middle Ages. A Critical Edition of the "Niẓẓahon Vetus." Introduction, Translation, Commentary* (Philadelphia: Jewish Publication Society, 1979); Maria Lodovica Arduini, *Ruperto di Denta e la controversia tra Cristiani ed Ebrei nel secolo XII* (Istituto Storico Italiano per il Medio Evo. Studi Storici. Fasc. 119-21. Rome, 1979).

[10] See the Commentary on Law 7, no. 11.

[11] The work, unfortunately incomplete, was edited by Américo Castro in *Revista de Filología Española*, 1 (1914), 173-80.

[12] *Cantiga* 12 (ed. W. Mettmann [4 vols., Coimbra, 1959-72]). Albert I. Bagby, Jr., "The Jew in the *Cántigas* of Alfonso X, el Sabio," *Speculum*, 46 (1971), 675-6.

[13] *Milagro* 16 (ed. Brian Dutton, London: Tamesis, 1971). This miracle constitutes a prime example of the naive linking of Jews with sorcerous practices. Not only were Jews accused of profaning elements of the Christian religion, but they were also charged with sorcerous attempts, with the aid of waxen figures, to murder Church officials (Joshua Trachtenberg, *The Devil and the Jews: The Medieval Conception of the Jew and its Relation to Modern*

Antisemitism [New Haven: Yale University Press/ London: H. Milford, Oxford University Press, 1943], pp. 57-75). In accounts which portray Jewish maltreatment of waxen figures of Christ, the actions of the Jews were construed as a renewal of the ancient antipathy towards the Christian Messiah. On the other hand, the prevalence of stories about sanguineous crucifixes supports the idea that the populace believed that Christ was somehow present in images, just as he was present in the wine and wafer of the Eucharist.

[14] See, for example, Innocent IV's letters to the archbishop of Vienne (28 May 1247): "Si diligenter," and "Divina justitia," as well as the one directed to the archbishops and bishops of France and Germany, "Lacrymabilem judaeorum" (Berger, *Les Registres d'Innocent IV*, nos. 2815, 2838, 3077, respectively). The same pope also included mention of the unfounded charge in his promulgation of the *Constitutio pro Judaeis*.

[15] E. H. Lindo's translation of this portion of Law 2 does not reflect accurately the original: "And whereas, we are informed, that some Jews, by way of derision on Good Friday. . ." (*The History of the Jews of Spain and Portugal, from the Earliest Times to Their Final Expulsion from Those Kingdoms, and Their Subsequent Dispersion*. . . [London, 1848; repr. New York: B. Franklin, 1970], p. 98).

[16] The charge was much more widespread outside the Iberian Peninsula, especially in France and Germany.

[17] Solomon Katz, *The Jews in the Visigothic and Frankish Kingdoms of Spain and Gaul* (Cambridge, Mass.: The Mediaeval Academy of America, 1937), p. 60.

[18] James Parkes, *The Conflict of the Church and the Synagogue* (New York: Atheneum, 1977), p. 332. B. Blumenkranz cites the original decrees of Orléans III, Mâcon, and other councils concerning Jewish activities during Passion celebrations (*Juifs et chrétiens dans le monde occidental, 430-1096* [Paris-The Hague: Mouton & Co., 1960], pp. 316-8).

[19] X 5.6.4.

[20] X 5.6.15.

[21] This concern is expressed in the Council of the Province of Narbonne (1227), canon 3.

Commentary 7.24.3

Throughout the early centuries of the Christian era, Jews served the State in various capacities as public officials, military officers, and the like.[1] In general, they suffered few disabilities in public office until the fifth century, when Honorius and Arcadius issued decrees designed to curb Jewish entry into public office and military positions.[2] Jews were, nonetheless, allowed to serve as lawyers and decurions, though, as Juster and Parkes have noted, the decurionate was more a burden than a privilege.[3] The pertinent law in the *Codex Theodosianus* concludes with an ironic commentary on the "trade-off": "Quibus cum debeant ista sufficere, interdictam militiam pro nota non debent aestimare" (*CT* 16.8.24).[4]

The *Codex Justinianus* likewise contains laws designed to restrict Jews from holding public office in which they could bring judgments against Christians, or injure them (*CJ* 1.9.18[19]),[5] and from engaging in legal practice (*CJ* 2.6.8). In the East Jews did succeed in retaining the privilege of exemption from serving in the decurionate.

The legislation in the *Codex Theodosianus* concerning Jews in public office appeared again in 506, with modifications, in the *Lex Romana Visigothorum*,[6] and was later reflected in various church councils, though Parkes notes that ". . . either they [the councils] found Jewish officials tolerable or there were not enough of them to create a serious problem."[7] Nevertheless, canon 14 of the third council of Toledo (589), which deals specifically with the problem of Jews in positions of authority, was to serve as an important precedent for later ecclesiastical legislation devoted to that question.[8] Both the pertinent decrees in the *Decretum* and, notably, the fourth Lateran Council, indicate clearly the Toledan provenance of the law:

> *Offitia publica Iudaeis non sunt committenda. Item ex Concilio Tolletano III.* Nulla offitia publica Iudeis iniungantur, per que eis occasio tribuatur penam Christianis inferre. Si qui uero Christiani ab eis in Iudaismo ritu sunt maculati uel etiam circumcisi, non reddito pretio ad libertatem et religionem redeant Christianam (D.54 c.14).

> Quum sit nimis absurdum, ut blasphemus Christi in Christianos vim potestatis exerceat, quod super hoc Toletanum concilium provide statuit, nos propter transgressorum audaciam in hoc generali concilio innovamus, prohibentes, ne Iudaei publicis officiis praeferantur, quoniam sub tali praetextu Christianis plurimum sunt infesti. Si quis autem eis officium tale commiserit, per provinciale concilium, quod singulis annis praecipimus celebrari, monitione praemissa districtione, qua convenit, compescatur. Officiali vero huiusmodi tamdiu Christianorum communio in commerciis et aliis denegetur, donec in usus pauperum Christianorum secundum providentiam dioecesani episcopi convertatur quicquid fuerit a Christianis adeptus occasione officii sic suscepti, et officium cum pudore dimittat, quod irreverenter assumpsit. Hoc idem extendimus ad paganos (X 5.6.16).

As is evident in the immediately preceding decree, subsequently incorporated into a letter Gregory IX sent to the archbishop of Compostela in 1233,[9] ecclesiastical proclamations concerning Jews in official positions frequently included theological justifications for excluding Jews from public office. Not only did it appear outrageous for the justly servile to rule over the free, but there were more practical fears that Jews would use their authority to oppress Christians and connive with the Moorish infidel.[10]

Alfonso's legislation in Law 3 reflects the aforementioned theological position, well-established by the thirteenth century, regarding Jews in positions of authority over Christians. The Spanish monarch unequivocally identifies the crucifixion as the pivotal event in the status of Jews vis-à-vis Christians. As a consequence of their purported role in the death of Christ, the Jews are rightly denied the honors and respect they once enjoyed. Since they have forfeited their exalted position before God and man, it would therefore be singularly inappropriate for them to assume public office over Christians.

Law 3 is, from a structural point of view, one of the most carefully crafted pieces of legislation in title xxiv. From the opening affirmation to the concluding mandate, the law is characterized by a logical progression of historical and forensic concepts.

The statute may be conveniently divided into two general parts, the first comprised of the following material:

> Antiguamientre los judíos fueron muy onrrados e avien muy grand previllegio. . . que perdiessen la onrra e el previllegio que avien.

In the introductory statement Alfonso records the fact that the Jews were once the object of great honors and privileges over all other peoples, since they alone were the people of God:

> Antiguamientre los judíos fueron muy onrrados e avien muy grand previllegio sobre todas las otras gentes, ca ellos tan solamientre eran llamados pueblo de Dios.

In the following statement, however, the Jews are no longer described as the passive recipients of divine benevolence. On the contrary, they are accused of rejecting, dishonoring, and, finally, viciously killing the one who had bestowed honors and privileges upon them. The Jews thus actively transform themselves from the chosen people of God into the murderers of His Son:

> Mas porque ellos fueron desconoscientes a aquél que los avie onrrados e previllegiados, e en logar de fazerle onrra, desonrráronlo, dándol muy aviltada muerte en la cruz. . .[11]

Finally, because of their crime, the Jews forfeit the honor and privileges they once held:

> . . . guisada cosa fue e derecha que por tan grand yerro e maldad que fizieron, que perdiessen la onrra e el previllegio que avien.[12]

There are at least three types of structures operating within this basically historical portion of Law 3. The first structure is temporal, as indicated in the movement from an early era when Jews enjoyed divine favor; to the crucifixion of Christ, when Jews irrevocably fell from their former privileged status; to the present time, when Jews possess diminished legal, social, and religious standing among Christians.

The second structure is thematic, as evidenced in the progression from Jews as the object of divine esteem, to Jews as the subject, i.e., contriver, of Christ's death, to Jews as the object of royal dominance. The movement is linear, with the final condition of the Jews being antithetical to that which they originally enjoyed.

The third structure, of a linguistic nature, is based upon verbal parallelisms occurring in each of the three parts comprising the first half of the law. Each section contains the words (or forms thereof) "honra" and "previllegio." This repetition is particularly effective given the subject of Law 3: Jews in positions of authority over Christians. These dual blessings, once enjoyed by the Jews, but now forever lost, constitute the focal point of the law, and complement both the chronological and thematic structures.

While the first half of Law 3 is historical, the second portion is basically pragmatic and concerned with the legislative consequences of the historical precedent:

> E por ende daquel día en adelante que crucificaron a Nuestro Señor Jhesu Christo. . . jamás logar onrrado nin oficio público con que podiesse apremiar a ningund cristiano en ninguna manera.

The central event which serves to unify the bipartite structure of Law 3 is the crucifixion. Not only does it constitute the decisive transition from a pre-Christian to a post-Christian era, and the concomitant change in the social, legal, and religious standing of the Jews, but it also establishes the raison d'être of Alfonso's legislative posture towards the Jews in his kingdom.

The essential functions of the second half of the law are to define explicitly the nature of "honras e previllegios," and to justify, on the basis of historical precedent,[13] the decree that Jews should not occupy positions of authority over Christians.

For Alfonso, the "honras e previllegios" are typified in the "reyes e sacerdotes" of pre-Christian Judaism. The mention of kings and priests is significant in that it symbolizes the Jews' loss of both temporal and spiritual authority. Indeed, as we have seen, papal authorities were assiduous in their attempts to limit Jewish influence in secular affairs, basing their position on the claim that the Jews' complicity in the death of Christ justifiably inaugurated their loss of religious and secular supremacy.

In the concluding statement of Law 3, Alfonso refers to a well-established historical precedent prohibiting Jews from holding public office or otherwise exercising authority over Christians:

> E los emperadores que fueron antiguamientre señores de todo el mundo. . . con que podiesse apremiar a ningund cristiano en ninguna manera.

The fact is, of course, that Alfonso did not follow his own proclamation in this regard. It is well known that until the later years of his reign, Alfonso surrounded himself with Jews who served him in a variety of intellectual, economic, and administrative functions. Although this is not the place to discuss the role of the Jews in Alfonso's court, it should be noted that the considerable intellectual activities fostered by Alfonso required the presence of Jewish collaborators, individuals who at times also occupied important administrative posts. In addition, Jews contributed with both taxes and talents to the financial operation of the kingdom, a service which Alfonso could ill afford to overlook. Thus, in spite of certain theological reservations concerning Jews in positions of authority, Alfonso chose to bow to the practical value of involving Jews in cultural and governmental affairs.[14]

NOTES (7.24.3)

[1] For more detailed information regarding Jews in public office during the late Roman Empire, see Juster, *Les Juifs dans l'empire romain*, II, pp. 243-90.

[2] The first, issued in 404, decreed simply that "Iudaeos et Samaritanos, qui sibi agentum in rebus privilegio blandiuntur, omni militia privandos esse censemus" (*CT* 16.8.16). Fourteen years later the law was renewed, effectively barring Jews from imperial office and degrading those performing military service: "In Iudaica superstitione viventibus adtemptandae de cetero militiae aditus obstruatur. Quicumque igitur vel inter agentes in rebus vel inter palatinos militiae sacramenta sortiti sunt, percurrendae eius et legitimis stipendiis terminandae remittimus facultatem, ignoscentes facto potius quam faventes, in posterum vero non liceat quod in praesenti paucis volumus relaxari. Illos autem, qui gentis huius perversitati devincti armatam probantur adpetisse militiam, absolvi cingulo sine ambiguitate decernimus, nullo veterum meritorum patrocinante suffragio. Sane Iudaeis liberalibus studiis institutis exercendae advocationis

non intercludimus libertatem et uti eos curialium munerum honore permittimus, quem praerogativa natalium et splendore familiae sortiuntur. Quibus cum debeant ista sufficere, interdictam militiam pro nota non debent aestimare" (*CT* 16.8.24).

[3] Juster, *Les Juifs dans l'empire romain*, II, pp. 258-61; Parkes, *The Conflict of the Church and the Synagogue*, pp. 200-1.

[4] *Novella* 3 of Theodosius II (438) is likewise devoted, *inter alia*, to the question of Jewish office-holding. The legislation later appeared in the *Lex Romana Visigothorum*. See Juster, *Les Juifs dans l'empire romain*, II, p. 245; esp. notes 1 and 2.

[5] "Hac victura in omne aevum lege sancimus neminem Iudaeum, quibus omnes administrationes et dignitates interdictae sunt, nec defensoris civitatis fungi saltem officio nec patris honorem adripere concedimus, ne adquisiti sibi officii auctoritate muniti adversus Christianos et ipsos plerumque sacrae religionis antistites velut insultantes fidei nostrae iudicandi vel pronuntiandi quamlibet habeant potestatem."

[6] The 438 *Novella* of Theodosius II (see note 4) is *Lex Rom. Visigoth.* = *Breviarium Alaricianum*, *Nov. Theod.* II, title 3 ('De Iudaeis. . .'), ed. Gustavus Haenel (Lipsiae, 1848; repr. Aalen, 1962).

[7] *The Conflict of the Church and the Synagogue*, p. 325. Parkes provides a list of those councils which did address the problem of Jews in official positions (*The Conflict of the Church*. . ., p. 390).

[8] "Nulla officia publica eos opus est agere, per quae eis occasio tribuatur poenam Christianis inferre" (Mansi, *Conciliorum Amplissima Collectio*, IX, p. 966). Aloysius K. Ziegler notes the strengthening of the bond between Church and State resulting from Toledo III, a phenomenon which was to influence greatly Jewish-Christian relations in Visigothic Spain (*Church and State in Visigothic Spain* [Washington, D.C.: The Catholic University of America, 1930], pp. 33-5). See, also, X 5.6.18.

[9] Cited in Grayzel, *The Church and the Jews*, pp. 204-6.

[10] See, for example, Honorius III's letter to the king of Aragon regarding Jewish messengers to Muslims ("Ad audientiam nostram" [4 November 1220]), in Mansilla, *La documentación pontificia de Honorio III (1216-1227)*, no. 333. No doubt Christian suspicions were increased because of the well-known role Jews had played as advisers and administrators in Muslim Spain. See Stillman, *The Jews of Arab Lands*, p. 57, for a brief summary of the important offices held by Jews under Moorish rule.

[11] The Jews were frequently excoriated for their cruelty. See, for instance, Bernard of Clairvaux's strongly worded charges in David Berger, "The Attitude of St. Bernard of Clairvaux Toward the Jews," in *Proceedings of the American Academy for Jewish Research*, 40 (1972), pp. 100-1.

[12] Laws 1 and 3 of title xxiv emphasize the death of Christ as the crucial moment in the precipitous collapse of the Jews' religious and social status. In Law 1, the penalty for belonging to

the lineage of those who crucified Christ is perpetual servitude; in Law 3 the punishment is loss of secular and religious honors. In both cases the movement is from a station of respect and freedom to one of humiliation and serfdom.

[13] It should be noted that the historical portion of the law is not wholly accurate, since Jews continued to be privileged in the Roman Empire until it became offically Christianized. Thus, it is a manipulated *Christian* history the law proclaims.

[14] For the role of Jews in Alfonso's court, see Gonzalo Menéndez Pidal, "Como trabajaron las escuelas alfonsíes," *Nueva Revista de Filología Hispánica*, 5 (1951), 363-80; Evelyn S. Procter, *Alfonso X of Castile: Patron of Literature and Learning* (Oxford: Clarendon Press, 1951), pp. 113-39; Américo Castro, *The Structure of Spanish History*, trans. Edmund L. King (Princeton, N.J.: Princeton University Press, 1954), pp. 474-91; Yitzhak Baer, *A History of the Jews in Christian Spain*, I (Philadelphia: The Jewish Publication Society of America, 1978), pp. 113-30; David Romano, "Le opere scientifiche di Alfonso X e l'intervento degli ebrei," *Oriente e Occidente nel Medioevo* (Roma: Accademia Nazionale dei Lincei, 1971), 677-711.

Commentary 7.24.4

Throughout the Diaspora the synagogue has served, for Jews and Christians alike, as perhaps the most visible and representative manifestation of the Jewish presence in a predominantly non-Jewish world. It has functioned as a communal meeting place, a court of justice, an educational center, in addition to its strictly religious role as a house of prayer and a repository for the Torah.[1] Because of its central position in Jewish life, the synagogue was at once a source of reverent pride to Jews, as well as a symbol of opprobrium to its detractors.[2] It is not surprising, therefore, to encounter from the early centuries of the Christian era laws dealing with the construction, renovation, confiscation, and services of the synagogue.[3]

The laws of Honorius in the Codex Theodosianus contain various provisions for freedom of worship by Jews, including a decree that synagogues and Sabbaths are to remain undisturbed:

> Quae Iudaeorum frequentari conventiculis constat quaeque synagogarum vocabulis nuncupantur, nullus audeat violare vel occupata detinere, cum sine intentione religionis et cultus omnes quieto iure sua debeant retinere.[4]

In the Eastern provinces, also, it is mandated that Jews and their synagogues are to be respected (CT 16.8.12).[5] Jewish religious authorities, furthermore, are to enjoy the same privileges granted to Christian clergy (CT 16.8.13).[6]

By the early fifth century, however, this benign attitude towards Jews and Jewish institutions had begun to give way to an increasingly hostile posture.[7] This tendency is reflected in a variety of statutes, including those dealing with synagogues. On three occasions Christians were ordered to refrain from destroying synagogues (CT 16.8.21; 16.8.25; 16.8.26).[8] Although Theodosius II reiterated prior legislation enacted to protect synagogues, for the first time he decrees that no new synagogues are to be constructed:

> Placet in posterum nullas omnino synagogas Iudaeorum vel auferri passim vel flammis exuri et si quae sunt post legem recenti molimine vel ereptae synagogae vel ecclesiis vindicatae aut certe venerandis mysteriis consecratae, pro his loca eis, in quibus possint extruere, ad mensuram videlicet sublatarum, praeberi. Synagogae de cetero nullae protinus extruantur, veteres in sua forma permaneant.[9]

Although in the above law Theodosius II declares that old synagogues are to remain in their present condition, the same emperor states in his novella of 438 that synagogues in danger of collapsing may be repaired:

> Illud etiam pari consideratione rationis arcentes, ne qua synagoga in novam fabricam surgat, fulciendi veteres permissa licentia, quae ruinam praesentaneam minitantur.[10]

It is this principle--no new synagogues are to be constructed, but old ones may be restored--that was to endure in civil and religious legislation throughout the Middle Ages. If, however, Jews disregard this injunction and erect new synagogues, these structures are to revert to Christian ownership:

> Ut quisque igitur vel infulas ceperit, adquisitis dignitatibus non potiatur, vel synagogam extruxerit, conpendio ecclesiae catholicae noverit se laborasse.[11]

As we shall see, this particular of Roman law concerning synagogues was to make its way into later secular and religious legal compendia, including the Siete Partidas. In fact, the same statute, with slightly different wording, is found in the Codex Justinianus, with the additional stipulation that a fine of 50 pounds of gold be paid by the insolent builders.[12]

Though the unauthorized transformation of a synagogue into a church is illegal, the fait accompli is to be respected and the church cannot be reclaimed by the Jews. The Jews, however, are permitted to construct a new synagogue on land provided by the Church for that purpose (CT 16.8.25).[13]

We have seen that, according to Roman law, Jews were granted certain rights and constrained by specific limitations in connection with their synagogues. Gregory I (590-604) adopted this principle for canon law in the famous bull "Sicut Iudaeis":

> Sicut Iudaeis non debet esse licentia quicquam in synagogis suis ultra quam permissum est lege praesumere, ita in his quae eis concessa sunt nullum debent praeiudicium sustinere. . .[14]

Not only were Jews forbidden to do in their synagogues anything other than what was permitted by law, but they were also prohibited from doing anything with their synagogues that was contrary to established law. This, as we have noted, concerns primarily, though not exclusively, the building of new synagogues and the repair of existing ones.

The classic formulation of this principle during the later Middle Ages is found in the Decretales of Gregory IX (1227-1241):

> Consuluit Iudaeos etiam de novo construere synagogas, ubi eas non habuerunt, pati non debes. Verum, si antiquae corruerint, vel ruinam minantur, ut eas reaedificent, potest aequanimiter tolerari, non autem, ut eas exaltent, aut ampliores aut pretiosiores faciant, quam ante fuisse noscuntur; qui utique hoc pro magno debent habere, quod in veteribus synagogis et suis observantiis tolerantur.[15]

It is apparent from the above decree that old synagogues are to be rebuilt only if the structure is in imminent danger of collapsing. Particular concern is expressed that the refurbished synagogue be neither larger nor more ornate than it was before the reconstruction. That there must have been a certain laxity in this regard is evident by the appearance of various papal and conciliar pronouncements directed to remiss authorities. In a celebrated case, Gregory IX's successor, Innocent IV (1243-1254), chastised the bishop of Córdoba for having allowed the Jews of that city to erect a synagogue of unseemly height.[16]

Papal letters also dealt with complaints that synagogues were refurbished ostentatiously. In 1415 Benedict XIII (Pedro de Luna) issued a bull to the bishop of Toledo in which he mandated the closure of all but one synagogue in a community. If there were two synagogues in a particular town, only the less attractive of the two was allowed to remain in the hands of the Jews.[17]

Apprehension was also at times expressed concerning the propinquity of synagogues to churches. It was felt that the danger of intimate relations between Jews and Christians would be heightened if the two groups associated too closely with one another.[18] Moreover, Christians were continually on their guard against Jewish proselytizing.[19] Finally, Christians complained that Jews celebrated their rites in a boisterous, unruly manner, thus interrupting nearby Christian services.[20]

Given the prominent role the synagogue played in the life of Jews, along with the increasing attention Christian authorities, secular and religious, devoted to regulating this key institution of Judaism, it is not surprising to discover that Alfonso X has included in title xxiv a law dealing with the synagogue. This statute is the first of three laws which are essentially tolerant, although none of these is totally free of restrictions on Jews.[21]

Law 4 is divided into two main parts, the first directed primarily to Jews and the second to Christians. Alfonso begins his synagogue legislation by noting that the synagogue is a house of prayer:

> Sinagoga es logar ó los judíos fazen oración, e tal casa como ésta non pueden fazer nuevamientre en ningund logar de nuestro señorío a menos de nuestro mandado.[22]

In the first half of the law, that portion directed specifically to Jews, Alfonso paraphrases the aforecited decree found in the *Liber Extra* (or *Decretales* of Gregory IX):[23]

> . . . e tal casa como ésta non pueden fazer nuevamientre en ningund logar de nuestro señorío a menos de nuestro mandado. Pero las que avien antiguamientre, si acaesciesse que se derribassen, puédenlas reparar o fazer en aquel mismo suelo assí como ante estavan, non las enlargando más nin las alçando nin las faziendo pintar. E la sinagoga que dotra guisa fuesse fecha, dévenla perder los judíos e seer de la eglesia mayor del logar ó la fizieren.

The second half of Law 4 commences with an unequivocal statement as to why Christians must respect the synagogue:

> E porque la sinagoga es casa ó se loa el nombre de Dios, defendemos que ningund cristiano non sea osado de la quebrantar nin de sacar ende nin de tomar ninguna cosa por fuerça. . .

Both the structure and the opening words of this passage parallel those of the first half of the law, though the emphasis is different. In the portion of Law 4 just cited, Alfonso is clearly anxious to establish the indubitably sacred character of the synagogue. Not only is it a place where Jews pray, but, more importantly, it is a house of prayer where the very name of God is praised. Once the sanctity of the synagogue has been established, Alfonso prohibits Christians from damaging it and from removing any of its contents, with the exception of malefactors who have taken refuge in the synagogue. Christians are furthermore forbidden from lodging their animals in the synagogue, or temporarily occupying it themselves. Finally, they are not to hinder Jews at prayer in their synagogue:

> . . . defendemos que ningund cristiano non sea osado de la quebrantar nin de sacar ende nin de tomar ninguna cosa por fuerça, fueras ende si algund omne malfechor se acogiesse en ella; ca este atal bien lo pueden ý prender por

> fuerça para levarlo delante la justicia. Otrossí defendemos que los cristianos non metan ý bestias nin posen en ellas nin fagan embargo a los judíos mientre ý estudieren faziendo oración segund su ley.

In the first half of Law 4, that part directed primarily to Jews, Alfonso follows very closely canonical prescripts concerning synagogues, adding nothing to what was, by the thirteenth century, well-established policy. On the other hand, in the remainder of the law, that portion aimed at Christians, Alfonso amplifies considerably the rather general command of Pope Alexander III that ". . . qui utique hoc por magno debent habere, quod in veteribus synagogis et suis observantiis tolerantur." It is apparent that Alfonso is here taking great pains to protect the synagogue, first by stressing the holiness of the institution, and second by forbidding Christians to abuse it. Not only do Alfonso's injunctions preserve the sanctity of the synagogue, but they also help to prevent hostility between Jews and Christians.

Alfonso's reliance on a venerable civil and canonical tradition regarding the synagogue is clear, and he incorporates into the *Siete Partidas* the essential components of this legal tradition. Of great importance, however, is Alfonso's explicit establishment, *as a legal premise*, of the sacred quality of the synagogue and, by extension, the prayers offered therein. By so doing, and by enumerating the specific protections which Jews should enjoy in their synagogues, Alfonso sought to temper the effect--though not the letter--of the equally express canonical provisions concerning the synagogue. Alfonso thus hoped to mitigate certain ecclesiastical demands, as expressed in canon law, and, at the same time, maintain the integrity of a fundamental Jewish religious institution. That such a delicate equilibrium was ultimately doomed to falter is not surprising, but it is to Alfonso's credit that during the zenith of the medieval papacy he at least made the effort to preserve it.[24]

NOTES (7.24.4)

[1] For an examination of the central role of the synagogue during medieval times, see David Menahem Shohet, *The Jewish Court in the Middle Ages* (New York: Hermon Press, 1931), pp. 53-67; Israel Abrahams, *Jewish Life in the Middle Ages* (London: Edward Goldston, 1932), pp. 13-48; Abraham A. Neuman, *The Jews in Spain: Their Social, Political and Cultural Life During the Middle Ages*, II (Philadelphia: Jewish Publication Society of America, 1942), pp. 146-60; Francisco Cantera Burgos, *Sinagogas españolas, con especial estudio de la de Córdoba y la toledana de El tránsito* (Madrid: C.S.I.C., Instituto Arias Montano, 1955); *Sinagogas de Toledo, Segovia y Córdoba* (Madrid: C.S.I.C., Instituto Arias Montano, 1973); Jacob Katz, *Tradition and Crisis: Jewish Society at the End of the Middle Ages* (New York: Free Press of Glencoe, 1961), pp. 175-81; I. Levy, *The Synagogue: Its History and Function* (London: Vellantini - Mitchell, 1963); Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (New York: Philipp Feldheim, 1964), pp. 16f., 33, *et passim*; Isidore Epstein, *Studies in the Communal Life of the Jews of Spain, As Reflected in the Responsa of Rabbi Solomon ben Adreth and Rabbi Simon ben Zemach Duran*

(New York: Hermon Press, 1968), I, pp. 57-63; II, pp. 72-8; D. A. Halperin, The Ancient Synagogues of the Iberian Peninsula (Gainseville, Florida: University of Florida Press, 1969); Louis I. Rabinowitz, "Synagogue," in EJ, XV, cols. 579-84; Joseph Gutmann, ed., The Synagogue: Studies in Origins, Archaeology and Architecture (New York: KTAV, 1975).

[2] Visual representations of the conflict between the Church and the Synagogue are studied in H. Pflaum, Die religiöse Disputation in der europäischen Dichtung des Mittelalters (Genève: L. S. Olschki, 1935); Seiferth, Synagogue and Church in the Middle Ages.

[3] A concise enumeration of Roman and conciliar decrees concerning the synagogue is found in Parkes, The Conflict of the Church and the Synagogue, pp. 379-91.

[4] Theodosiani Libri XVI cum Constitutionibus Sirmondianis et Leges Novellae ad Theodosianum Pertinentes, ed. Th. Mommsen and Paul M. Meyer, 2 vols. (Berlin: Weidmannos, 1905), 16.8.20. All citations will be to this edition of the Codex Theodosianus (CT), unless otherwise indicated.

[5] "Excellens auctoritas tua rectores conveniri praecipiat, ut percepta notione cognoscant oportere a Iudaeis inruentum contumelias propulsari eorumque synagogas in quiete solita permanere."

[6] "Iudaei sint obstricti caerimoniis suis: nos interea in conservandis eorum privilegiis veteres imitemur, quorum sanctionibus definitum est, ut privilegia his, qui inlustrium patriarcharum dicioni subiecti sunt, archisynagogis patriarchisque ac presbyteris

ceterisque, qui in eius religionis sacramento versantur, nutu nostri numinis perseverent ea, quae venerandae Christianae legis primis clericis sanctimonia deferuntur."

[7] See, in this regard, Juster, _Les Juifs dans l'empire romain_, I, pp. 456-72; Blumenkranz, _Juifs et chrétiens dans le monde occidental_, pp. 309-15; Baron, _A Social and Religious History_, II, pp. 280-6, 422f.; Parkes, _The Conflict of the Church and the Synagogue_, pp. 204f., 214, 236, 238, _et passim_.

[8] "Nullus tamquam Iudaeus, cum sit innocens, obteratur nec expositum eum ad contumeliam religio qualiscumque perficiat. Non passim eorum synagogae vel habitacula concrememtur vel perperam sine ulla ratione laedantur. . ." (16.8.21). "Placet in posterum nullas omnino synagogas Iudaeorum vel auferri passim vel flammis exuri. . ." (16.8.25). "Libenter tamen repetendae legis occasionem amplexi Iudaeos scire volumus, quod ad eorum miserabiles preces nihil aliud sanximus, quam ut hi, qui pleraque inconsulte sub praetextu venerandae Christianitatis admittunt, ab eorum laesione persecutioneque temperent utque nunc ac deinceps synagogas eorum nullus occupet, nullus incendat" (16.8.26).

[9] _CT_ 16.8.25.

[10] _Nov_. 3.3.

[11] _Nov_. 3.5.

[12] ". . . et qui synagogae fabricam coeperit non studio reparandi, cum damno auri quinquaginta librarum fraudetur ausibus suis" (_Codex Iustinianus_ /_CJ_/ 1.9.18) (_Corpus Iuris Civilis_.

I. *Institutiones*, *Digesta*. *II*. *Codex Iustinianus*. *III*. *Novellae*, ed. Th. Mommsen, P. Krueger, R. Schoell, G. Kroll (Berlin: Weidmannos, 1884-1904). Alaric included the passage in a *Novella* (*Nov*. 3.5).

[13] See *supra*, note 8. Pope Gregory the Great applied the statute to a situation arising in Palermo where the local bishop had seized unlawfully the synagogue of that city (Solomon Katz, "Pope Gregory the Great and the Jews," *Jewish Quarterly Review*, 24 [1933-34], 123). Note, also, S. Katz, *The Jews in the Visigothic and Frankish Kingdoms of Spain and Gaul* (Cambridge, Mass.: The Mediaeval Academy of America, 1937), pp. 73-5.

[14] Katz, "Pope Gregory the Great and the Jews," p. 121; Grayzel, *The Church and the Jews*, pp. 9-12; "The Papal Bull *Sicut Judaeis*," in *Studies and Essays in Honor of Abraham A. Neuman*, ed. Meir Ben-Horin, et al. (Leiden: Brill, 1962), pp. 243-80.

[15] X 5.6.7 (Alexander III). The medieval Spanish version of the *Decretales* states the principle thus: "Dize aqui que los iudios non deuen auer nueuas synagogas, mas deuen auer las uieias" (Jaime M. Mans Puigarnau, *Decretales de Gregorio IX: Versión medieval española*, I [Barcelona: Universidad de Barcelona, Facultad de Derecho, 1939], p. 141).

[16] The bull is cited by Amador de los Ríos (*Historia social, política y religiosa de los judíos*, pp. 894-5) in the course of his argument for a direct relationship between the mandate of

Innocent IV and the disposition in the *Partidas* that under certain conditions a synagogue should revert to the local church of a given place. While Alfonso X was probably aware of Innocent IV's letter to don Gutierre, bishop of Córdoba, it is not necessary to postulate the monarch's dependence upon an individual statute, particularly one concerned with a local infringement, as a fundamental source for his legislation in Law 4. It is much more reasonable to view Alfonso's decree within the context of many centuries of civil and religious legislation regarding the synagogue. See, in addition, Amador de los Ríos, *Historia social, política y religiosa*, pp. 200-1, 250-1; Grayzel, *The Church and the Jews*, p. 282.

The Talmudic injunction that the synagogue should stand on the most prominent point in the town is found in *Shabbath* 11a: "Raba b. Meḥasia also said in the name of R. Ḥama b. Goria in Rab's name: Every city whose roofs are higher than the synagogue will ultimately be destroyed, as it is said, 'to exalt the house of our God, and to repair the ruins thereof.' Yet that refers only to houses; but as for towers and turrets, we have no objections" (*The Babylonian Talmud: Seder Mo'ed*, trans. I. Epstein [London: Soncino, 1938]). See, also, Cantera Burgos, *Sinagogas de Toledo, Segovia y Córdoba*, pp. 153-4. In at least one instance, Jews were permitted to embellish their synagogues and even to raise them to an unaccustomed height, as long as they were returned to their former condition before Easter: ". . . que antes de la pascua de resurreción, devuelvan las sinagogas ennoblecidas y alzadas, a su antiguo estado. . ." (Pilar León Tello, *Judíos de Toledo*, II [Madrid: C.S.I.C., Instituto Arias Montano, 1979], p. 98).

On many occasions Muslim rulers forbade the building or adornment of synagogues in terms similar to those expressed by Christian authorities. In this regard, see Norman A. Stillman, *The Jews of Arab Lands: A History and Source Book* (Philadelphia: Jewish Publication Society of America, 1979), p. 300.

[17] The text of the decree is found in Amador de los Ríos, *Historia social, política y religiosa de los judíos*, pp. 976-77.

[18] This concern motivated decrees from the early centuries of the Christian era regulating social relations between Jews and Christians, including prohibitions of dining together, wearing similar dress, living close to one another, and intermarrying between the two faiths.

[19] Jewish proselytizing during the Middle Ages is discussed in the Commentaries to Laws 2 and 7.

[20] Note, for instance, the words of Innocent III: ". . . imo, non recipiuntur etiam testes in hoc articulo contra eos, usque adeo etiam, quod cum rubore referimus, insolescunt, ut Senon. juxta quamdam ecclesiam veterem novam construxerint Synagogam, ecclesia non modicum altiorem, in qua, non, sicut olim priusquam fuissent ejecti de regno, demissa voce, sed cum magno clamore secundum ritum Judaicum sua officia celebrantes, divinorum celebrationem in eadem ecclesia non dubitant impedire" (*PL*, 215, col. 502). See,

also, Katz, "Pope Gregory the Great and the Jews," pp. 121-2; and Synan, *The Popes and the Jews in the Middle Ages*, pp. 45, 95.

Muslims, also, complained of the exuberance with which Jews celebrated their rites: "The noisy ceremonies of the Jews in accordance with their false rites hinder our pious devotion and divine worship" (Stillman, *The Jews of Arab Lands*, p. 302).

Finally, Thomas Coryat, in his account of the Venetian ghetto in 1608, described the synagogue service in the following terms: "The Levite that readeth the law to them, hath before him at the time of divine service an exceeding long piece of parchment, rowled up upon two woodden handles: in which is written the whole summe and contents of Moyses law in Hebrew: that doth he (being discerned from the lay people onely by wearing of a redde cap, whereas the others doe weare redde hats) pronounce before the congregation not by a sober, distinct, and orderly reading, but by an exceeding loud yaling, undecent roaring, and as it were a beastly bellowing of it forth. And that after such a confused and huling manner, that I thinke the hearers can very hardly understand him. . ." (quoted in Cecil Roth, "Leone da Modena and England," *Transactions of the Jewish Historical Society of England*, 11 [1924-27], 217).

[21] The others deal with the Sabbath (Law 5) and forced conversions (Law 6).

[22] In the late fourteenth century, Juana, wife of Enrique II, using language reminiscent of *SP*, VII.xxiv.4, referred to the synagogue as "una casa de oración" (Justiniano Rodríguez Fernández,

Las juderías de la provincia de León [León: Centro de Estudios e Investigación "San Isidoro," 1976], p. 314).

[23] X 5.6.7.

[24] As the Reconquest proceeded with ever-increasing vigor throughout the Peninsula, resulting in greater political and religious unification than ever before, the legal and religious disabilities of the Jews were intensified. As we have seen, various laws were promulgated to restrict the construction or aggrandizement of synagogues. Violations of such laws were punished by returning the synagogues to their original condition, or else transforming them into churches. In the late fourteenth and fifteenth centuries, however, a notable change occurs in that a growing number of synagogues are simply destroyed. (Amador de los Ríos, *Historia social, política y religiosa*, pp. 452, 454, 461, 467, 475; Baer, *A History of the Jews in Christian Spain*, II, pp. 11, 96ff.) As thousands of Jews were forced either to convert or to leave their Iberian homeland, the synagogue, venerable symbol of Judaism, increasingly became an object of opprobrium. With crusading fervor, preachers such as the indomitable Vincent Ferrer interrupted synagogue services to proclaim the Christian faith to their captive audiences. Once the alliance of a unified State and an organized Church had been effected, Spanish Jews suffered a devastating loss of legal standing, of which the wanton destruction of synagogues was but one of the more overt manifestations.

Commentary 7.24.5

Legal pronouncements from the early Christian centuries down to the Middle Ages deal with a variety of topics concerning Jews, including oaths, slave ownership, social relations, and the like. Regulations pertaining to the Sabbath, however, are of particular interest by reason of the centrality of that institution to Jewish religious practice.

As a result of its intimate connection with Judaism, the Sabbath early became a prime target of anti-Judaic sentiment.[1] Even though under the undivided Empire Judaism enjoyed the status of a permitted religion, Constantine's famous decree establishing the *dies solis* as the official holy day of the week was to portend increasing intolerance for Judaism.[2] Nevertheless, until the dissolution of the Empire, the imperial edicts are illustrative more of a concern for the economic ramifications of the Jewish presence than they are of patently religious intolerance.[3]

Indeed, the laws of the late Roman Empire exhibit considerable tolerance for Jewish religious practice. In the *Codex*

Theodosianus, for example, Honorius decreed that synagogues and Sabbaths are to be respected (16.8.20).[4] The Codex Justinianus contains an even more detailed law enjoining respect for the Jewish Sabbath, stipulating explicitly that Jews are exempt from having to appear in court on the Sabbath. Likewise, Jews are not to sue Christians on that day. Because we shall have occasion to refer in some detail to this law within the context of Alfonso's legislation regarding the Sabbath, the decree is here cited:

> Die sabbato ac reliquis sub tempore, quo Iudaei cultus sui reverentiam servant, neminem aut facere aliquid aut ulla ex parte conveniri debere praecipimus (ita tamen, ut nec illis detur licentia eodem die Christianos orthodoxos convenire, ne Christiani forte ex interpellatione Iudaeorum ab officialibus praefatis diebus aliquam sustineant molestiam), cum fiscalibus commodis et litigiis privatorum constat reliquos dies posse sufficere (1.9.13).[5]

It is apparent, however, that already in the fourth century we may perceive certain anti-Jewish attitudes. Canon 16 of the Council of Laodicea (a. 360) established that the Gospels, as well as the other portions of the Bible, were to be read on the Jewish Sabbath.[6] Furthermore, Christians were enjoined to avoid the appearance of "Judaizers" who rested on the Sabbath (canon 29). Instead, Christians are to labor on the Jewish Sabbath and rest on the dies Domini (canon 29).[7] In the Iberian Peninsula, the Council of Elvira (c. 300) legislates specifically against interaction with Jews on four points: intermarriage, blessing of fields, sharing feasts with Jews, and adultery with Jewesses.[8]

In general, through the fourth century the usual policy of the Church is one of tolerance with regard to the Jewish Sabbath. The increasing legislation promoting Sunday as the appropriate day of rest, however, was bound to result in religious and economic hardships for Jews. In the centuries immediately after the collapse of the Roman Empire, as the Church assumed a more dominant role in political affairs, the Jewish Sabbath is mentioned with greater frequency and in more negative contexts than during the days of relative peace under the Empire.

Yet, though the Empire as a political unit had been destroyed, many of its legal and ethical foundations were to endure in barbarian recensions of Roman law based mainly on the *Codex Theodosianus*. Included within the corpus of laws originating in the *Codex Theodosianus* are various statutes relating to the Jews. The *Breviarium* of Alaric II (*BA*), for instance, reiterates, *inter alia*, the ordinances found in the *Codex Theodosianus* (*CT*) against Jews keeping Christian slaves (*CT* 3.1.5; *BA* 3.1.5), against intermarriage between Jews and non-Jews (*CT* 3.7.2; 9.7.5; *BA* 3.7.2; 9.4.4); and against the erection of new synagogues (*CT* Novella 3; *BA* Novella 3). The *Breviarium* also contains the provision that the Sabbath not be disturbed (*CT* 2.8.26; *BA* 2.8.3).[9]

It is in the councils and laws of the Visigoths and Franks that we encounter considerable legislation relating to the Sabbath. A year before the death of Alaric, the Council of Agde (a. 507) prohibited fasting on Sabbath during Lent (canon 12). The Council of Orléans (a. 538) proscribed participation in Jewish festivities (canon 13), as well as social interaction of Jews and Christians between Holy Thursday and Easter Sunday (canon 30). Less than fifty years later, the Council of Mâcon (a. 581) reiterated canons 13 and 30 of the Council of Orléans. At the Council of Narbonne (a. 589), it was decreed that Jews not engage in servile activities on Sunday (canon 4).[10]

The Western kingdoms under the Visigoths witnessed a profusion of laws designed not only to limit Judaizing tendencies among Christians in the Iberian Peninsula, but also to eradicate such practices from among Jews themselves. Receswinth (d. 672) forbade any separation of foods into clean and unclean categories (*Forum Judicum*/ *Fuero Juzgo* = *FJ* 12.2.8), as well as the celebration of any Jewish feasts, including Passover (*FJ* 12.2.5; 12.3.4).[11] Observance of the Jewish Sabbath is likewise proscribed (12.3.5).[12] Receswinth's successor, Erwig, maintained the restrictions first dictated in the *FJ*, and further ordered that desecrators of Sunday were to be punished (*FJ* 12.3.6).[13]

In 711 the Moorish invasion of the Iberian Peninsula, resulting in the collapse of the Visigothic kingdom, ushered in an era of relative tolerance for Iberian Jewry. Although it would be an exaggeration to claim that Jews were entirely free of religious and economic discrimination during the early centuries of Moorish domination, and particularly during the twelfth-century Almohad incursions, still, Judaism prospered in an atmosphere of general religious tolerance.[14]

The *Reconquista*, however, ended the period of comparative tranquility enjoyed by the Jews. By the eleventh century, as the Christian sovereigns gradually established their hegemony over the

Peninsula, the prospect of Jews being permitted to follow the dictates of their religion decreased steadily. The ancient Visigothic codes, now in the form of royal pronouncements directed to particular towns and regions, were applied anew to the Jews. The legislation enacted deals with a broad scope of social and economic strictures, ranging from special garb to distinguish Jews from Christians, to statutes regulating Jewish possession of Christian slaves and servants.[15]

As a result of the uniquely Iberian phenomenon of Jewish, Moorish, and Christian coexistence, special regulations were promulgated to deal with various social situations. A number of _fueros_ (municipal charters), for example, regulate the days on which Christians, Muslims, and Jews are permitted to visit the public baths.[16] The _Fuero de Teruel_ (1190), for instance, declares that men are free to bathe on Tuesday, Thursday, and Saturday, while women may do so on Monday and Wednesday, and Jews and Muslims are strictly limited to visiting the baths on Friday.[17]

Alfonso X devotes the most extensive law of VII.xxiv to the question of the Jewish Sabbath. The essential purpose of the Sabbath legislation is to delineate for Christians the significance of the Sabbath for Jews, as well as to exempt Jews from having to become involved in legal disputations on the Sabbath. The legislation, therefore, falls into two main divisions, the first directed primarily to Christians, and the second to Jews.

In the first section, Alfonso states that, because of the sacred character of the Sabbath, Jews remain in their homes, neither working nor engaging in lawsuits. During this time, no Christian is to call Jews to court, nor are they to suffer any other annoyance on that day.

> Sábado es día en que los judíos fazen sus oraciones e están quedados en sus posadas e non se trabajan de fazer merca nin pleito ninguno. E porque tal día como éste son ellos tenudos de guardar segund su ley, non los deve ningund omne enplazar nin traer a juizio en él. . . E otrossí sentencia que diessen contra ellos en tal día, mandamos que non vala.[18]

It is apparent, both from the structure and content of this passage, that Alfonso X relied heavily upon similar statutes in the *Codex Theodosianus* (2.8.26 = 8.8.8) = *Codex Justinianus* (1.9.13) for the principle that Jews can neither be sued nor sue on their Sabbath. The *Siete Partidas* then branches off into its own special concerns, but in this respect it is virtually the same as the Roman statutes.

In the second portion of Law 5, that directed primarily to Jews, Alfonso declares that Jews can be arrested on the Sabbath if they are guilty of homicide, robbery, or a similar offense.[19] Furthermore, disputes between Jews and Christians must be litigated before Christian judges, rather than before rabbis. Finally, Jews may not sue Christians on the Sabbath, either personally or indirectly through a legal representative.[20]

The second point, that suits between Jews and Christians must be adjudicated before Christian judges, rather than before Jewish courts, is clearly based upon a decree in the *Codex Justinianus*, here reproduced for purposes of comparison:

> Si qua inter Christianos et Iudaeos sit contentio, non a senioribus Iudaeorum, sed ab ordinariis iudicibus dirimatur (CJ 1.9.15 = CT 16.8.22).[21]

Not only is the substance of the two laws identical, but the evident translation of the term "senioribus Iudaeorum" ("viejos dellos") indicates Alfonso's reliance upon CJ 1.9.15 for this portion of Law 5.

Indeed, Alfonso's legislation is actually more generous than the aforecited Roman law, since the latter orders Jews to use the public courts for everything except matters governed by their own religious law. And if they desire to use arbitrators (permitted only for civil matters), the arbitrators' judgments will then be executed by public judges. The Siete Partidas, however, requires Jews to come to public court only for Jewish-Christian litigation.

Almost as an afterthought, Alfonso appends to the legal material addressed to Jews a final directive to Christians that any complaints against Jews should be directed to Christian judges. If, however, a Christian attempts to seek remedy on his own, and in so doing harms or robs a Jew, the latter is compensated a double indemnity for the loss sustained at the hands of the Christian.

Of the 12 pieces of legislation in title xxiv, Law 5 is the one which most clearly epitomizes the checkered history of Hispanic Jewry during the Middle Ages. The Visigothic statutes exhibit a negative stance towards nearly all Jewish doctrinal tenets, including the keeping of the Sabbath. To a large degree, the rationale expressed for the restrictions on the Sabbath is theological. The Jews are viewed as the people of the Old

Testament, whereas the Christians are considered to be partakers of the New Dispensation.[22]

Alfonso, however, recognizes the sanctity of the day for Jews and takes pains to ensure that Christians do not disturb Jews on that day. He is careful, nevertheless, not to allow Jews to overstep the bounds of the privileges granted them.[23]

Alfonso's position towards the Jewish Sabbath is one of tolerance; one might even aver respect. By the late fourteenth century, however, the Christian attitude towards the Jews in the Iberian Peninsula had become increasingly hostile. In 1391 the Jews of much of Spain suffered a series of pogroms which decimated many communities. 101 years later, the Catholic Kings, in the same year that the Moorish infidel was finally defeated, solidified the Catholic hegemony of Spain by ordering the expulsion of all Jews unwilling to convert to Christianity. The blatant antipathy for Jews and Judaism exhibited in the late fourteenth and fifteenth centuries contrasts markedly with the earlier tolerance shown for at least some aspects of Jewish life. Indeed, for Spanish Jews in the twilight of the Middle Ages, even the Sabbath had ceased to be a day of rest.

NOTES (7.24.5)

[1] For an examination of anti-Judaic attitudes on the part of Roman authorities, see Samuele Bacchiocchi, *From Sabbath to Sunday: A Historical Investigation of the Rise of Sunday Observance in Early Christianity* (Rome: Pontifical Gregorian University, 1977), pp. 169-77. The same author provides an extensive compendium of statements by early Church Fathers who warn against Judaizing tendencies among Christians (*Ibid*., pp. 177-85, 213-35). This concern with Christian participation in so-called Jewish practices, particularly the observance of the Sabbath, is echoed down through the centuries in the canons of the Church, as well as in legislation by secular authorities. See, for example, Frederich M. Schweitzer, *A History of the Jews Since the First Century A.D.* (New York-London: Macmillan, 1971), p. 115, who notes the large number of early Jewish Christians who persisted in the tradition of observing the Jewish Sabbath as their weekly day of rest.

[2] This is the famous Edict of Milan (a. 313), though it is not an edict nor was it promulgated at Milan (F. L. Cross, ed., *The Oxford Dictionary of the Christian Church*, 2nd ed. [Oxford: Oxford University Press, 1974], p. 915).

[3] "Under the necessity felt to separate Christianity from Judaism, Christian authorities sought to establish Sunday as the Christian day of rest and worship, a trend that was much strengthened by Constantine's edict forbidding judges to sit and townspeople to work on Sundays; although there was no interference with the Jewish Sabbath, Sunday laws then and long afterwards were often a hardship for Jews who had perforce two days of rest in an age when a living was hard to earn" (Schweitzer, A History of the Jews, p. 73). The combined economic and religious motivations for prohibiting labor on Sunday, especially labor effected by Jews, continued throughout the late medieval period. Jewish merchant charters, for example, are indicative of such proscriptions, as the following selection demonstrates: ". . . they [the Jews] are permitted to live according to their law and to hire Christian workers to labor for them as long as they do not require them to work on Sunday or on Christian holidays" (Bernard S. Bachrach, Jews in Barbarian Europe [Kansas: Coronado Press, 1977], p. 68).

[4] "Quae Iudaeorum frequentari conventiculis constat quaeque synagogarum vocabulis nuncupantur, nullus audeat violare vel occupata detinere, cum sine intentione religionis et cultus omnes quieto iure sua debeant retinere. At cum vero Iudaeorum memorato populo sacratum diem sabbati vetus mos et consuetudo servaverit, id quoque inhibendum esse censemus, ne sub obtentu negotii publici vel privati memoratae observationis hominem adstringat ulla conventio, cum reliquum omne tempus satis publicis legibus sufficere

videatur sitque saeculi moderatione dignissimum, ne delata privilegia violentur; quamvis retro principum generalibus constitutis satis de hac parte statutum esse videatur."

[5] See, in addition, similar statutes in *CJ* 1.9.2; *CT* 2.8.26; 8.8.8; and *BA* 2.8.3. In a precedent-setting decree, the Emperor Augustus exempted Jews from having to appear before Roman courts on Sabbath (Baron, *A Social and Religious History*, I, p. 245). Note, also, Baron, III, pp. 4-15, for a schematic look at the condition of the Jews during the age of Justinian, as well as Juster, *Les Juifs dans l'empire romain*, I, pp. 338-90; esp. 354-7.

[6] *Index Canonum*, ed. John Fulton (New York: Pott, Young, and Co., 1872), p. 255. See, furthermore, Charles J. Hefele, *A History of the Councils of the Church from the Original Documents*, II (Edinburgh: T. & T. Clark, 1896), pp. 310-11. Parkes, *The Conflict of the Church and the Synagogue*, pp. 379-91, contains useful chronologies of conciliar and synodal decrees concerning Jews.

[7] Later, the Venerable Bede was to reiterate the importance of resting on the Lord's Day, though his admonitions were in the context of the question of the chronology of Easter: ". . . quem tamen et antea non semper in luna quarta decima cum Iudaeis, ut quidam rebantur, sed in die quidem dominica, alia tamen quam decebat ebdomada, celebrabant. Sciebant enim, ut Christiani, resurrectionem dominicam, quae prima sabbati facta est, prima sabbati semper esse celebrandam; sed ut barbari et rustici, quando eadem prima sabbati, quae nunc dominica dies cognominatur, ueniret, minime

didicerant" (*Bede's Ecclesiastical History of the English People*, ed. Bertram Colgrave and R. A. B. Mynors [Oxford: Clarendon Press, 1969], p. 224).

[8] Canons 16, 49, 50, 78, respectively.

[9] In this regard, see Aloysius K. Ziegler, *Church and State in Visigothic Spain* (Washington, D.C.: The Catholic University of America, 1930), esp. p. 187.

[10] Parkes provides a convenient thematic index for most of these councils (*The Conflict of the Church and the Synagogue*, pp. 389-91). For the text of the councils, see. G. D. Mansi, *Sacrorum conciliorum nova et amplissima collectio*, 31 vols. (Florence, 1759-89).

[11] "Ningund dellos [los judíos] non guarde las ferias, nin los sábados, nin las otras fiestas daquí adelantre: nin seya osado de las ordenar nin de las tener daquí adelantre" (12.2.5). ". . . por end establecemos este establecemiento por siempre, que todo judío que ficiere la pascua segund suele reciba C. azotes, é ráyanle la cabeza, é échenlo de la tierra por siempre, é metan todas sus cosas en el tesoro del rey" (12.3.4). (*Fuero juzgo en latín y castellano, cotejado con los más antiguos y preciosos códices* [Madrid: Real Academia Española, 1815].)

[12] "Onde establecemos contra los judíos descreidos, que si algun judío guardare los comienzos de las lunas, ó las pascuas de las cabaniellas, ó guardare los sábados, ó los dias que han por grandes, ó las otras fiestas segund su antigua costumbre, reciba

cada uno dellos C. azotes, é sea echado de la tierra por siempre, é toda su buena sea en poder del rey, por tal que si se repentiere de aquel error, que ge la dé á aquel, ó á qui el rey quisiere, si aquel en su yerro fincare" (12.3.5). An earlier (a. 637) prohibition of the celebration of the Jewish Sabbath is recorded in the "placitum" directed to the Jews of Toledo by the Visigoth Chintila: "Ritum etiam judaicum et dies festos eorum, sabbatumque et circumcisionem carnalem, cum omnibus superstitionibus vel observationibus ceteris et ceremoniis eorum rejicimus, abominamur et exsecramus; promittentes nos lege catholica communibus cibis cum christianis vivere, exceptis illis quos nobis natura et non superstitio rejicit; quia omnis creatura Dei bona" (Rafael de Ureña y Smenjaud, *Historia de la literatura jurídica española* [Madrid: I. Moreno, 1906], p. 573).

[13] "E establecemos con derecho, é decimos que todo omne, quier sea judío ó judía, que labrare en campo ó en huerto en los dias de los domingos, ó la muger filare lino ó lana, ó ficiere otra huebra alguna en casa, ó en el campo, ó en yuguería. . . aquel que fuere osado de facer lo que nos defendemos, ráyanle la cabeza, é reciba C. azotes."

[14] See, especially, Amador de los Ríos, *Historia social, política y religiosa*, pp. 67-92, 112-31, 155-77; Abraham S. Halkin, "On the History of the Almohade Persecution" [Hebrew], in *The Joshua Starr Memorial Volume* (New York: Conference on Jewish Relations, 1953), pp. 101-10; Eliyahu Ashtor, *Korot ha-Yehudim*

bi-Sefarad ha-Muslemit, 2 vols. (Jerusalem: Kiryat Sepher, 1960-66); English trans. *The Jews of Moslem Spain*, 2 vols. (Philadelphia: Jewish Publication Society of America, 1973); Ibn Daud, *Sefer ha-Qabbalah*.

[15] For a survey of medieval Hispanic texts, see G. Tilander, "Fuentes jurídicas," *Enciclopedia Lingüística Hispánica*, ed. M. Alvar, A. Badía, et al., II (Madrid: C.S.I.C., 1967), pp. 447-60. Note, also, the important linguistic study by Jerry R. Craddock, "On Old Spanish Municipal Charters as Primary Sources for Linguistic History," *Romance Philology*, 24 (1970), 119-28.

[16] Legislation regulating the days upon which men, women, Jews, and Muslims may visit the baths is found in the following charters: *El fuero de Plasencia*, José Benavides Checa, ed. (Rome: Lobes, 1896), p. 107; *El fuero de Usagre (siglo XIII) anotado con las variantes del de Cáceres*, Rafael de Ureña y Smenjaud and Adolfo Bonilla y San Martín, ed. (Madrid: Hijos de Reus, 1907), p. 48; *El fuero de Zorita de los Canes según el códice 217 de la Biblioteca Nacional (s. XIII al XIV) y sus relaciones con el fuero latino de Cuenca y el romanceado de Alcázar*, Rafael de Ureña y Smenjaud (Madrid: Fortanet, 1911), pp. 67-8; *Los fueros de Sepúlveda*, Emilio Saez, ed. (Segovia: Diputación Provincial de Segovia, 1953), p. 103. Of considerable interest is the study of Robert Ignatius Burns, S.J., "Baths and Caravanserais in Crusader Valencia," *Speculum*, 46 (1971), 443-58.

[17] "Encara, los bannyadores uayan al bannyo comunal mjentre en el día del martes et en el día del jueues et del sábado, segunt del

fuero. Mas las mugeres otrosí uayan al uannyo en el día del lunes et del mjércoles. Mas los jodíos et los moros uayan en el día del ujernes et non en otro día por alguna manera" (p. 225).

[18] The vernacular legislation of Alfonso X respecting the Jewish Sabbath is paralleled in the almost contemporary Latin privileges issued by Jaime I on 6 March 1239, in Valencia: "Et si aliquis judeus fuerit captus in posse justitie christianorum, quod absolvatur a capcione et possit ire ad suam domum de die veneris inantea ultra meridiem usque in diem lune venientem, dando securitatem, quod redeat ad capcionem, et non teneatur nullus judeus respondere suo querelanti in die sabbati nec in suis festis" (Yitzhak Baer, *Die Juden im christlichen Spanien. Erster Teil: Urkunden und Regesten*, II [Berlin: Akademie-Verlag, 1936], p. 93). Additional evidence that lawsuits were not permitted on either the Jewish Sabbath or on Sunday is found in the *Fueros de Alba de Tormes* (mid-eleventh century): "Todos los plazos que ouieron entre cristianos e iudios sean en la sinoga de los iudios al domingo al sol puesto" (*Fueros leoneses de Zamora, Salamanca, Ledesma y Alba de Tormes*, Américo Castro and Federico de Onís, ed. [Madrid: Hernando, 1916], I, p. 308). Additional legislation may be found in Miguel Angel Orti Belmonte, "Glosas a la legislación sobre los judíos en las Partidas," *Boletín de la Real Academia de Ciencias, Bellas Letras y Nobles Artes*, 26 (1955), 53-8.

[19] The importance of the Sabbath is apparent in the dictum in *Exodus Rabba* 25:12: "If Israel keeps one Sabbath as it should be

kept, the Messiah will come. The Sabbath is equal to all the other precepts of the Torah." See Abram Kanof, "Sabbath," in EJ, XIV, cols. 557-72.

[20] In general, Jews were not permitted under halakhah (rabbinic law) to send representatives to court to plead on their behalf. The Middle Ages, however, witnessed considerable violation of this principle, as evidenced in the remonstrations of such abuses by Maimonides and other Jewish authorities. See, also, Shohet, The Jewish Court in the Middle Ages, pp. 91, 100. Legal contacts between Jews and Christians are discussed by Guido Kisch in "Relations Between Jewish and Christian Courts in the Middle Ages," in Louis Ginzberg Jubilee Volume (New York: The American Academy for Jewish Research, 1945), pp. 201-25; and "The Jews in Medieval Germany: A Bibliography of Publications on Their Legal and Social Status: 1949-1969," Revue des Études Juives, 130 (1971), 271-94. See, also, Finkelstein, Jewish Self-Government in the Middle Ages.

[21] Consider, in addition, the following statute in the Codex Theodosianus, later incorporated into the Breviarium Alaricianum (2.1.10): "Iudaei Romano et communi iure viventes in his causis, quae non tam ad superstitionem eorum quam ad forum et leges ac iura pertinent, adeant sollemni more iudicia omnesque Romanis legibus inferant et excipiant actiones: postremo sub legibus nostris sint. Sane si qui per conpromissum ad similitudinem arbitrorum apud Iudaeos vel patriarchas ex consensu partium in civili dumtaxat negotio putaverint litigandum, sortiri eorum iudicium iure

publico non vetentur: eorum etiam sententias provinciarum iudices exequantur, tamquam ex sententia cognitoris arbitri fuerint adtributi" (*CT* 2.1.10 = *CJ* 1.9.8).

[22] "Pues que son idas las sombras de las antoianzas, é parescieron las verdades, é dexamos nos de obrar por las sombras, é obligamos nos á obrar por la verdad, nin aborrece mas el derecho que aquel que viene contra la palabra de Dios, o dice por lengua de su propheta: Aborridas á mi alma vuestras pascuas, é vuestros sábados, é vuestros comienzos de meses" (*Fuero Juzgo* 12.3.5). The same argument is employed by Ramón Lull in the *Liber Praedicationis contra Judaeos*, pp. 99-100.

[23] The principle is the same as that expounded in the well-known *Constitutio pro Judaeis*, issued first by Calixtus II (1119-1124). In this regard, see Grayzel, *The Church and the Jews*, pp. 5ff., 11, 14, 76-9; Synan, *The Popes and the Jews*, pp. 45f., 97f., 229-32; Solomon Katz, "Pope Gregory the Great and the Jews," *Jewish Quarterly Review*, 24 (1933-34), 120-1.

[24] Much of the material for this Commentary is the result of work resulting in an earlier article, "Christian Attitudes Toward the Jewish Sabbath in the Light of Medieval Spanish Legal Texts," in *Proceedings of the Conference on Patristic, Medieval, and Renaissance Studies* (Villanova, Penn.: Villanova University, 1981: in press).

Commentary 7.24.6

> But those to whom God wants to be merciful are not to be compelled to the grace of baptism unless they want it voluntarily, and just as man fell of his own free will when he succumbed to the serpent's guile, even so, when called by the grace of God, he ought to bring about his own rise in complete freedom of will.

These laudable sentiments, expressed in a letter of Gregory IX to the archbishop of Bordeaux and the bishops of Saintes, Angouleme, and Poitiers in 1236,[1] reflect the traditional papal posture regarding the conversion of non-Christians.[2] In fact, well over six centuries earlier, in 591, Gregory the Great had declared that it was preferable to win the Jews by kind words and gentle persuasion, rather than by threats and violence.[3] This principle of pacific conversion was adopted by subsequent popes and formed an important part of the *Constitutio pro Judaeis*,[4] as this selection from the *Constitutio* in the *Decretales* demonstrates: "Statuimus enim, ut nullus Christianus invitos vel nolentes Iudaeos ad baptismum venire compellat."[5]

Nevertheless, though no pope sanctioned the use of absolute force in the conversion of non-Christians, such was not always the case with secular rulers.[6] Certain Visigothic kings, most notably Recared, Sisebut, and Erwig, included compulsory baptism among their anti-Jewish measures.[7] Once a person had been baptized, the Church forbade the New Christian to return to Judaism, a policy which was to endure throughout the Middle Ages. This applied equally to children who had been baptized after having reached the age of accountability, usually twelve years of age, though at times as early as seven.[8]

The rise of the mendicant orders provided the Church with a presumably less coercive guise than forced baptism for inducing recalcitrant Jews to accept, or at least listen to, the Christian message, through the required attendance of Jews at sermons preached on their behalf.[9] The preachers were not infrequently aided by zealous monarchs, such as Jaime I of Aragon and Louis IX of France.[10] Though in the late Middle Ages such preaching was performed almost exclusively by Dominicans and Franciscans, these orders clearly operated with papal blessing, as evidenced by Nicholas III's (1277-1280) famous bull _Vinea Soreth velut_, which prescribed "sermons and other means for the conversion of the Jews."[11]

In addition to this overt means of converting the Jews, the Church had recourse to more subtle inducements. Gregory I had early advocated the use of material gain as a way of attracting and retaining Jewish converts, and pecuniary benefit became a standard constituent in the repertoire of conversionary techniques.[12] Lateran III (1179), for example, declared plainly that not only should converts retain their property, but they should enjoy greater prosperity than before their conversion:

> Si qui praeterea Deo inspirante ad fidem se converterint Christianam, a possessionibus suis nullatenus excludantur, quum melioris conditionis ad fidem conversos esse oporteat, quam, antequam fidem susceperint, habebantur. Si autem secus fuerit factum, principibus seu potestatibus eorundem locorum iniungimus sub poena excommunicationis, ut portionem hereditatis suae et bonorum suorum ex integro eis faciant exhiberi.[13]

Popes, therefore, adopted various measures designed to ensure that New Christians enjoyed greater prosperity than before their conversion. To this end, they granted pensions, reduced taxes, ordered local churches to support new converts, and encouraged secular rulers to provide for the financial well-being of converts to Christianity. In addition, family unity was safeguarded and inheritance rights were protected so that the convert would suffer a minimum of social and financial distress.[14]

For its part, the Jewish community was, of course, reluctant to allow any of its members to adopt Christianity. It consequently discouraged conversion by means of various social and economic constraints.[15] If Jewish converts to Christianity were reviled by their former coreligionists, their acceptance by established Christians remained tenuous at best. For centuries generations of converts to Christianity would be subjected to the unflagging scrutiny of the Inquisition to determine "limpieza de sangre," purity of lineage. Vilified by Jews and suspected by Christians, the Jewish convert to Christianity, both willing and unwilling, was to play a distinctive, though hardly enviable, role in Spanish life and letters.[16]

Law 6 may be divided into two main parts: the first, a theoretical introduction to the subject at hand, and the second, a specific application of the aforementioned general statement. In the opening lines, Alfonso unequivocally protects Jews from forced conversion: "Fuerça nin premia non deven fazer en ninguna manera a ningund judío por que se torne cristiano." Rather than resorting to force, those desirous of winning Jews to the Church are enjoined to employ good examples, the words of Scripture, and benevolence:

> . . . mas con buenos enxemplos e con los dichos de las Santas Escripturas e con falagos los deven los cristianos convertir a la fe de Nuestro Señor Jhesu Christo, ca Nuestro Señor Dios non quiere nin ama servicio quel sea fecho por premia.

Alfonso's declaration of the principle of non-coercion parallels closely Gregory I's letter to the bishop of Terracina (a. 591):

> Hos enim, qui a christiana religione discordant, mansuetudine, benignitate, admonendo, suadendo ad unitatem fidei necesse est congregare, ne quod dulcedo praedicationis et praeventus futuri judicis terror ad credendum invitare poterat, minis et terroribus repellatur.[17]

a policy later reiterated in the Decretum,[18] and possibly the immediate source of Alfonso's decree in Law 6.

The second portion of the law is devoted to a discussion of the particulars of Jewish conversion to Christianity, with emphasis on the disabilities frequently suffered by the new converts. Alfonso directs his initial words to those Jews who attempt to hinder the conversion of their coreligionists:

> Otrossí dezimos que si algund judío o judía de su grado se quisiere tornar cristiano o cristiana, non ge lo deven embargar nin defender los otros judíos en ninguna manera.

If, however, the mandate is disregarded, and the prospective or recently baptized Jew is stoned, wounded, or killed by other Jews, the guilty parties are to be burned:

> E si algunos dellos lo apedreassen ol feriessen ol matassen por que se quisiesse fazer cristiano, o después que fuesse baptizado si esto se podiere averiguar, mandamos que todos los matadores e los consejadores de tal muerte o apedreamiento sean quemados.

If the new proselyte is merely wounded or dishonored, then the malefactors are to make restitution and the local judicial authorities to administer appropriate punishment:

> E si por aventura nol matassen mas lo feriessen ol desonrrassen, mandamos que los judgadores del logar ó acaesciere apremien a los feridores e a los fazedores de la desonrra de manera que les fagan emienda por ello. E demás que les den pena por ende segund entendieren que merescen de la rescebir por el yerro que fizieron.

Clearly these acts--stoning, battery, and murder--were punishable in general. What Alfonso wants to stress is that the law will also be applied to violence done by Jews against prospective converts to Christianity.

Alfonso then turns his attention to Christians, ordering them to respect their new coreligionists: "Otrossí mandamos que después que algunos judíos se tornaren cristianos que todos los de nuestro señorío los onrren." Christians should not insult the convert, especially with respect to his lineage, though, significantly, Alfonso does not prescribe any penalty for those Christians guilty of harrassing or injuring the new converts: "E ninguno non sea osado de retraer a ellos nin a su linaje de como fueron judíos en manera de denuesto." Finally, the convert shall retain his property and inheritance rights, and shall be eligible for any office or honor available to other Christians:

> E que ayan sus bienes e sus cosas partiendo con sus hermanos e heredando a sus padres e a los otros sus parientes bien assí como si fuessen judíos. E que puedan aver todos los oficios e las onrras que an los otros cristianos.[19]

Alfonso's position with regard to Jewish converts to Christianity is based, both thematically and verbally, upon papal decrees originating with Gregory I and continuing through the time of Innocent III. Though, as Synan has noted, the conversionary inducements proffered by the Church can only with difficulty be discriminated from bribery,[20] it would be unfair to accuse either Alfonso or the popes of base motives. If in their attempts to convert the Jews, Church and State sometimes resorted to material attractions, at least they recognized--in theory, if not always in practice--the necessity of willful acceptance of Christianity and the injustice of absolute coercion.

NOTES (7.24.6)

[1] The translation is that of S. Grayzel, The Church and the Jews, pp. 226-9. Gregory's inspiration was no doubt D.45 c.5 (i.e., Toledo IV, canon 56).

[2] For useful sketches of the question, see Grayzel, The Church and the Jews, pp. 13-21; Synan, The Popes and the Jews, pp. 47-9, 57-9, 105-6, et passim; Bernhard Blumenkranz, "Die christlich-jüdische Missionskonkurrenz (3. bis 6. Jahrhundert)," Klio, 39 (1961), 227-33; "Jüdische und christliche Konvertiten im jüdisch-christlichen Religionsgespräch des Mittelalters," in Judentum im Mittelalter, ed. Paul Wilpert, Miscellanea Mediaevalia (Berlin: W. de Gruyter & Co., 1966), pp. 264-82; Kisch, The Jews in Medieval Germany, pp. 200-1.

[3] "It is necessary to gather into the unity of the faith those who are at variance with the Christian religion, through kindliness, benignity, admonition, and persuasion, so that what the sweetness of the sermon and removal of the terror of the Judge to come could achieve in leading to belief, should not be undone by threats and terrors" (Gregorii I Papae Registrum Epistolarum, ed. P. Ewald and Ludov. M. Hartmann [MGH, Epist., I {Berlin, 1887}], I, XXXIV, p. 48; trans. G. Kisch, The Jews in Medieval Germany, p. 201); S. Katz, "Pope Gregory the Great and the Jews," pp. 124-5.

[4] See the Commentary to Law 5, note 23.

[5] X 5.6.9.

[6] The distinction between *vis compulsiva* and *vis absoluta* formed an important part of the Church's conversionary posture towards the Jews. The problem is succinctly stated by Synan: "The common doctrine distinguished between force that was 'absolute' and force that was 'conditioned.' Absolute force implied a physical compulsion so intense as to overcome all capacity of the recalcitrant candidate to resist; it would invalidate the rite. But no lesser degree of violence renders consent totally involuntary, nor, in consequence, would such lesser, conditioned force render the baptized immune to the rigors of canonical penalties should he fail to practice his new religion" (*The Popes and the Jews*, p. 56). On the question of forced conversion, see Baron, *A Social and Religious History of the Jews*, III, p. 247; IV, pp. 5-12; IX, pp. 12-17.

[7] The conversion of Jews to Christianity, willingly and otherwise, is discussed by Katz in *The Jews in the Visigothic and Frankish Kingdoms of Spain and Gaul*, pp. 10-31. See, in addition, Amador de los Ríos, *Historia social, política y religiosa de los judíos de España y Portugal*, pp. 49-66.

[8] Grayzel, *The Church and the Jews*, p. 14, note 12.

[9] In this regard, see Raymund Martini, *Pugio Fidei* (Leipzig, 1687); J. Weill, "Vincent Ferrer et les juifs de Téruel (Aragon) au début du XV^{e} siècle," *Revue des Études Juives*, 78 (1924), 85-90;

Ramón Lull, *El "Liber Predicationis contra Judaeos,"* ed. José M.ª Millás Vallicrosa (Madrid-Barcelona: C.S.I.C., Instituto Arias Montano, 1957); R. J. Z. Werblowsky, "Ramon Lull's *Liber Praedicationis contra Judaeos*" [in Hebrew with English summary], *Tarbiz*, 32 (1963), 207-11; Baer, *A History of the Jews in Christian Spain*, I, pp. 151ff.; Baron, *A Social and Religious History of the Jews*, IX, pp. 71-5; R. Bonfil, "The Nature of Judaism in Raymundus Martini's *Pugio Fidei*" [in Hebrew with English summary], *Tarbiz*, 40 (1971), 360-75.

[10] Innocent IV, for example, included in a letter to the archbishop of Tarragona the following declaration of James I, the Conqueror: "Volumus etiam, et statuimus, quod quandocumque Archiepiscopus, Episcopi, vel Fratres Predicatores, et Minores accesserint ad villas, vel loca ubi Saraceni, vel Judei moram fecerint, et verbum Dei dictis Judeis, vel Saracenis proponere voluerint, ipsi ad vocationem ipsorum conveniant, et patienter audiant predicationem eorum, et Officiales nostri, si gratis venire noluerint, eos ad hoc omni excusatione postposita compellant" (Potthast, no. 11822; cited in Grayzel, *The Church and the Jews*, p. 256; not included in Berger, *Les Registres d'Innocent IV*).

[11] Discussed by Synan, *The Popes and the Jews*, pp. 119-20.

[12] Katz, "Pope Gregory the Great and the Jews," p. 125; Baron, *A Social and Religious History of the Jews*, IX, pp. 18-24.

[13] X 5.6.5.

[14] Grayzel, *The Church and the Jews*, pp. 18-21; Baron, *A Social*

and Religious History of the Jews, IX, pp. 18-24; Kisch, *The Jews in Medieval Germany*, pp. 202, 462. For other works dealing with the legal and social status of converted Jews in medieval Europe, see Kisch, p. 533.

[15] Neuman notes that, aside from the cultural disenfranchisement suffered, the Jewish convert to Christianity was ostracized by his family and friends, and was frequently subjected to verbal and physical abuse (*The Jews in Spain*, II, pp. 188ff.). Verbal affronts, a particularly common way of deprecating New Christians, were interdicted by both secular and ecclesiastical authorities (Neuman, *The Jews in Spain*, II, pp. 191-2; Grayzel, *The Church and the Jews*, p. 256; Kisch, *The Jews in Medieval Germany*, pp. 202-3; Peter Browe, *Die Judenmission im Mittelalter und die Päpste* (Miscellanea Historiae Pontificiae Edita a Facultate Historiae Ecclesiasticae in Pontificia Universitate Gregoriana, VI, Collectionis Totius, No. 8 [Rome: Herder, 1942], pp. 180ff., 192).

[16] This is particularly true of late fourteenth and fifteenth century Spanish Jewry. Of the many works dealing with the complex subject of "limpieza de sangre" and the influence of the phenomenon on Spanish life and literature, the following are particularly noteworthy: Otis H. Green, "Fernando de Rojas, *converso* and *hidalgo*," *Hispanic Review*, 15 (1947), 384-7; Stephen Gilman, "Fernando de Rojas as Author," *Romanische Forschungen*, 76 (1964), 255-90; (with Ramón Gonzálvez), "The Family of Fernando de Rojas," *Romanische Forschungen*, 78 (1966), 1-26; Albert A. Sicroff, *Les Controverses des statuts de "pureté de sang" en Espagne du* 15^{e} *au* 17^{e} *siècle* (Paris: Didier, 1960); Américo Castro, *The Spaniards:*

An Introduction to Their History, trans. Willard F. King and Selma Margaretten (Berkeley-Los Angeles-London: University of California Press, 1971), pp. 67-8, 74-5, 77-8, 348 *et passim*).

[17] See note 3.

[18] "Qui sincera intentione extraneos a Christiana religione ad fidem cupiunt rectam adducere, blandimentis debent, non asperitatibus studere, ne quorum mentem reddita a plano ratio poterat prouocare, pellat procul aduersitas. Nam quicumque aliter agunt, et eos sub hoc uelamine a consueta ritus sui uolunt cultura remouere, suas illic magis, quam Dei probantur causas attendere" (D.45, c.3). Cf. X 5.6.9.

[19] In this regard Alfonso X followed the lead of James I who, in 1242, allowed a converted Muslim to retain his property (Baron, *A Social and Religious History of the Jews*, IX, p. 21). Note, also, Pope Alexander III's complaints (c. 1179) ". . . against the royal policy of confiscating the movable property of a convert to Christianity and permitting the rest to go to the convert's Jewish relatives. . ." (Solomon Grayzel, "Pope Alexander III and the Jews," in *Salo Wittmayer Baron Jubilee Volume*, II [Jerusalem: The American Academy for Jewish Research, 1974], pp. 562-4). Innocent III even allowed the marriages of unbelievers, including Jews, to be respected after their baptism: "Super hoc igitur devotioni vestrae duximus respondendum quod matrimonium sic ante conversionem contractum non est post baptismi lavacrum separandum; cum a Judaeis Dominus requisitus, si licet uxorem ex qualicunque causa relinquere,

ipsis responderit: Quod Deus conjunxit, homo non separet" (*PL*, 214, col. 475).

[20] Synan, *The Popes and the Jews*, p. 158.

Commentary 7.24.7

From the early centuries of the Christian era, both secular and religious authorities sought to eliminate Jewish proselytizing. In the years before Constantine established Christianity as the official state religion, conversion to Judaism implied disparagement of the Roman gods. In spite of the seriousness of the charge, it is apparent that conversions to Judaism occurred, no doubt due largely to active missionizing by Jews. Indeed, J. Parkes attributes the ultimate breach between Rome and Judaism to a combination of Messianism and missionary endeavors on the part of Jews in the Diaspora.[1]

Once Christianity had been formally adopted by Constantine the Great (306-337) in 313, it was not long before laws appeared regulating Jewish-Christian relations.[2] Two years after his conversion, Constantine issued a decree strictly forbidding conversion to Judaism:

> Si quis vero ex populo ad eorum nefariam sectam accesserit et conciliabulis eorum se adplicaverit, cum ipsis poenas meritas sustinebit.[3]

It was later (a. 357) decreed that the Christian who converted to Judaism should lose his property to the royal fisc:

> Si quis lege venerabili constituta ex Christiano Iudaeus effectus sacrilegis coetibus adgregetur, cum accusatio fuerit conprobata, facultates eius dominio fisci iussimus vindicari.[4]

One of the most far-reaching statutes, proclaimed in Ravenna in 409, prohibited proselytizing on the part of Jews, declaring it to be "more grievous than death and more cruel than murder" for a Christian to adopt Judaism. Proselytizers for the Jewish faith were to be punished like those guilty of treason.[5]

Of particular interest for our study is the fact that Jews and *Caelicoli* are classed together in the *Codex Theodosianus*, 16.8, "De Judaeis, Caelicolis, et Samaritanis." The *Caelicoli*, or "heaven worshipers," were a short-lived cult--or perhaps heretical sect[6]--of the late fourth and early fifth centuries, associated in the *Codex Theodosianus* with the Donatists and Manicheans (16.5.43). Although Judaism still preserved its status as a *religio licita*, and was never considered an heretical religion, similar penalties were then and later applied to converts to Judaism and heretical sects.[7] It may be, then, that the link made by Alfonso X between conversion to Judaism and alliance with an heretical sect, with equal punishment for transgressors, finds its origins in *Codex Theodosianus* 16.8.[8]

In the *Siete Partidas* Alfonso further strengthens the connection between Judaism and heresy when he declares in VII.xxvi, "De los hereges," that ". . . *haeresis* en latin tanto quiere decir en romance como departimiento: et tomó este nombre herege porque es departido de la fe católica de los cristianos." The emphasis on waywardness concords closely with the wording employed in title xxiv, Law 7, where converts to Judaism are termed "misguided":[9] "Tan malandante seyendo algund cristiano que se tornasse judío. . ." Both heretics and converts to Judaism are, in the eyes of Alfonso, guilty of deviating from the true faith, either by adopting erroneous beliefs based upon Christian dogma, or by embracing the religion of those "que non creen la fe de Nuestro Señor Jhesu Christo."

The punishment for becoming a Jew is equivalent to that meted out to those guilty of heresy, death: ". . . mandamos quel maten por ello, bien assí como si se tornasse hereje." In title xxvi, Law 2, Alfonso indicates clearly the manner in which accused heretics are to be judged:

> Los hereges pueden seer acusados de cada uno del pueblo delante los obispos o de los vicarios que tienen sus lugares: et ellos los deben examinar et exprobar en los artículos et en los sacramentos de la fe: et si fallaren que yerran en ellos o en alguna de las otras cosas que la eglesia de Roma manda guardar et creer, estonce deben puñar de convertirlos et de sacarlos de aquel yerro por buenas razones et mansas palabras.[10] Et si se quisieren tornar a la fe et creerla despues que fueren reconciliados, débenlos perdonar. Et si por aventura non se quisieren quitar de su porfia, débenlos judgar por hereges et darlos despues a los jueces seglares: et ellos débenles dar pena en esta manera; que si fuere el herege predicador, a que dicen consolado, débenlo quemar en el fuego, de manera que muera en él. Esa misma pena decimos que deben haber los descreidos que diximos en la ley ante desta, que non creen haber gualardon nin pena en el otro sieglo. Et si non fuere predicador, mas creyente, que vaya et esté con aquellos fue ficieren el sacrificio a la sazon que lo ficieren, et que oya cutidianamente quando pudiere

> la predicacion dellos, mandamos que muera por ello esa misma muerte, porque se da a entender que es herege acabado, pues que cree et va al sacrificio que facen. Et si fuere creyente en la creencia dellos, mas non lo metiere en obra yendo al sacrificio dellos, mandamos que sea echado de todo nuestro señorío para siempre, o metido en cárcel fasta que se repienta et se torne a la fe.

Though incorrigible heretics and converts to Judaism are condemned to a fiery death, apostates--those who embrace Judaism or Islam, but repent of their conversion and return to Christianity--suffer a fate worse than death: permanent infamia, even if they repent:

> Apostata en latin tanto quiere decir en romance como cristiano que se fizo judio o moro, et despues se repintió et se tornó a la fe de los cristianos; et porque tal home como este es falso et escarnecedor de las leyes, non debe fincar sin pena maguer se repienta. Et por ende dixieron los sabios antiguos que debe seer enfamado para siempre, de manera que su testimonio nunca sea cabido, nin pueda haber oficio nin lugar honrado, nin pueda facer testimonio nin seer establescido por heredero de otro en ninguna guisa: et aun demas desto decimos que vendida nin donacion que a él hobiesen fecha o que él ficiese a otro desde aquel dia en adelante que fizo este yerro, non queremos que vala. Et esta pena tenemos que es mas muerte a este atal que si lo matasen; ca la vida deshonrada que él fará le será por muerte de cada dia, non pudiendo usar de las honras nin de las ganancias que ve usar comunalmente a los otros.[11]

As we have noted previously, the Codex Theodosianus decrees that the goods of a convert to Judaism are to revert to the royal fisc (16.8.7). Similarly, Alfonso, in title xxvi, Law 2, mandates that the property of convicted heretics without heirs--and, by extension, Jews, since the same penalty applies to both groups--

should belong to the king, unless the guilty are clerics, in which case the goods are to go to the Church.[12]

It is noteworthy that Alfonso says almost nothing in the Siete Partidas about Jewish proselytizing.[13] Indeed, the force of Law 7 is directed to Christians who might dare to embrace the Jewish faith, rather than to Jews attempting to convert Christians.[14] Even the penalties are levied solely against the Christian who adopts Judaism. With respect to Jewish attempts to convert non-Christians, Alfonso X decrees the death penalty for Jews who purchase and work slaves known to be Christians; the punishment for converting Moors "o otra gente bárbara" is that the converted slave is freed from his or her Jewish master.[15]

The near absence of Alphonsine legislation regulating Jewish proselytizing is significant because it indicates the considerable effect that Christianity exerted on overt Jewish conversionary attempts. If in the first three centuries of the Christian era Jews were active missionizers, by the thirteenth century they were necessarily circumspect in their efforts to gain converts.[16] Certainly the formal disputations between Jews and Christians on matters of religion were organized by Christians primarily in order to vindicate Christian dogma, rather than to provide a forum for open discussion of theological issues. Limited by canon and secular law from active proselytizing, Jews turned to the remaining source of converts, their servants and slaves. And to this question Alfonso devotes an entire law.[17]

NOTES (7.24.7)

[1] *The Conflict of the Church and the Synagogue*, pp. 25-6, 107-8. See, also, Juster, *Les Juifs dans l'empire romain*, I, pp. 253-337; Baron, *A Social and Religious History of the Jews*, I, pp. 172ff., 179ff., II, pp. 147-50, 387ff. For Jewish missionary activity from the fifth through the eleventh centuries, see Blumenkranz, *Juifs et chrétiens dans le monde occidental*, pp. 159-211. In this regard, note the Talmudic reference attributed to Rabbi Eleazar: "The Holy One, blessed be He, dispersed the people of Israel among the nations in order that they may acquire proselytes" (*Pesahim*, 87b [based upon Hosea ii.25]).

[2] These statutes are found primarily in the *Codex Theodosianus* and *Codex Justinianus*. A convenient inventory of the legislation dealing with Jews is found in Parkes, *The Conflict of the Church and the Synagogue*, pp. 379-83, 416-18. For greater detail concerning the laws of the two aforementioned codes, see Juster, *Les Juifs dans l'empire romain*, I, pp. 160-72, 237-8, II, pp. 35-40,

91-2, 101-4, *et passim*. See, in addition, Blumenkranz, *Juifs et chrétiens dans le monde occidental*, pp. 187-90, 202, 208, 295, 328, *et passim*.

[3] *CT* 16.8.1.

[4] *CT* 16.8.7.

[5] "Quam quidam adhuc, vitae suae etiam et iuris inmemores, adtrectare ita audent, ut de Christianis quosdam foedum cogant taetrumque Iudaeorum nomen induere. Et quamvis qui haec admiserint, priscorum principum legibus iure damnati sint, non tamen paenitet saepius admonere, ne mysteriis Christianis inbuti perversitatem Iudaicam et alienam Romano imperio post Christianitatem cogantur arripere. Ac si quisquam id crediderit esse temptandum, auctores facti cum consciis ad poenam praeteritis legibus cautam praecipimus constringi, quippe cum gravius morte sit et inmitius caede, si quis ex Christiana fide incredulitate Iudaica polluatur. Et idcirco iubemus, ne ecclesiis quisquam nocens vel cuiusquam abducere fideli ac devota deo praeceptione sancimus, sub hac videlicet definitione, ut, si quisquam contra hanc legem venire temptaverit, sciat, se ad maiestatis crimen esse retinendum (*CT* 16.8.19; excerpted in *CJ* 1.12.2).

[6] Very little is known about the *Caelicoli*. The information we do have is summarized in G. Bareille, "Célicoles," in *Dictionnaire de Théologie Catholique*, II (Paris: Letouzey et Ané, 1910), cols. 2088-89; A. Torhoudt, "Caelicolae," in *Reallexikon für Antike und Christentun*, II (Stuttgart: Hiersemann Verlag, 1954), cols. 817-20.

Clyde Pharr, in his commentary on the Theodosian Code, characterizes the Caelicoli as a heretical sect, though, strictly speaking, they may not have been heretics (The "Theodosian Code" and "Novels" and the "Sirmondian Constitutions": A Translation with Commentary, Glossary, and Bibliography [Princeton: Princeton University Press, 1952], p. 582).

[7] For the various attitudes--pagan, Roman, Christian--towards Judaism, and especially as concerns privileges accorded to Jews, including designation as a permitted religion, see Juster, Les Juifs dans l'empire romain, I, pp. 213-53; esp. pp. 246-53.

[8] In addition to religious reasons for prohibiting conversion to Judaism, economic considerations early resulted in restrictive legislation. The third son of Constantine the Great, Constantius II (337-361), decreed that the property of any Christian who converted to Judaism was to revert to the imperial treasury (16.8.7). He furthermore ordered the death penalty for those Jews who married Christian women employed in the royal factories (gynaecea), and commanded the women to return to their posts (CT 16.8.6).

[9] The word in Spanish, "malandante," has been translated in various ways. E. H. Lindo, in The History of the Jews of Spain and Portugal (London, 1848; repr. New York: B. Franklin, 1970), p. 101, renders it thus: "Such evil results from Christians turning Jews. . ." In this century, Samuel Parsons Scott, the indefatigable translator of ancient and medieval juridical works, provided a somewhat more accurate translation: "Where a Christian is so unfortunate as to become a Jew. . ." ("Las Siete Partidas";

repr. in Robert Chazan, *Church, State, and Jew in the Middle Ages* [New York: Behrman House, 1980], p. 194). It is essential to understand the term "malandante" as both 'unfortunate' and 'wayward', since it is the act of straying, i.e., conversion to Judaism, that elicits the resultant penalties.

[10] The same principle is expressed in VII.xxiv.6, where Alfonso explains that Jews should be led to the Christian truth ". . . con buenos enxemplos e con los dichos de las Santas Escripturas e con falagos. . ."

[11] *SP*, VII.xxv.5.

[12] "Otrosi decimos que los bienes de los que son condepnados por hereges, o que mueren conoscidamente en la creencia de la heregia, deben seer de los fijos o de los otros descendientes dellos. Et si fijos o nietos non hobieren mandamos que sean del mas propinquo pariente católico dellos, et si tales parientes non hobieren, decimos que si fueren seglares los hereges que el rey debe heredar todos sus bienes, et si fueren clérigos puede la eglesia demandarlos fasta un año, et haberlos despues que fueren muertos; et dende adelante háyalos la cámara del rey si la eglesia fuere negligente en non los demandar en aquel tiempo."

[13] The only exception is VII.xxiv.2.

[14] Law 8 of title xxiv is also worded to place the burden on Christians: "Cómo ningund cristiano nin cristiana non deve fazer vida en casa de judío." The *Lex Romana Visigothorum* also decrees death to the Christian who adopts Judaism: "Quia ergo crudelis et

stupenda presumtio crudeliori debet extirpari supplicio, ideo legis huius edicto decernimus, ut, quicumque christianus hac presertim a christianis parentibus ortus, sexus scilicet utriusque, circumcisiones vel quoscumque ritus Iudaecos exercuisse reppertus est vel, quod Deus avertat, potuerit ulterius repperiri, conspiratione et velo catholicorum tam novis et atrocioribus penis adflictus morte turpissima perimatur, quam orrendum et execrabile malum est, quod ab eo constat nequissime perpetratum. Eorum vero bona sibi procul dubio fiscus adsummat, si heredes vel propinquos talium personarum facti huius error consentiendo conmaculet" (12.2.16).

[15] See the Commentary on Law 10.

[16] On the question of Jewish missionizing, see A. Cabaniss, "Bodo-Eleazar, A Famous Jewish Convert," *Jewish Quarterly Review*, 43 (1952-53), 313-28; S. D. Goitein, "Obadyah, A Norman Proselyte," *Journal of Jewish Studies*, 4 (1953), 74-84; Blumenkranz, *Juifs et chrétiens dans le monde occidental*, pp. 159-211; "Jüdische und christliche Konvertiten im jüdisch-christlichen Religionsgespräch des Mittelalters," in *Judentum im Mittelalter*, pp. 264-82; N. Golb, "Notes on the Conversion of European Christians to Judaism in the Eleventh Century," *Journal of Jewish Studies*, 16 (1965), 69-74; Synan, *The Popes and the Jews*, pp. 61-4; Kenneth R. Stow, "The Church and the Jews: From St. Paul to Paul IV," in *Bibliographical Essays in Medieval Jewish Studies*, pref. and intro. by Yosef H. Yerushalmi (New York: KTAV, 1976), pp. 145-7.

[17] See the Commentary on Law 10 for details.

Commentary 7.24.8

One of the earliest and most characteristic objectives of legislation regulating Jewish-Christian relations was to delimit social contacts between the two groups. In this the Church took the lead, though often with the approval of Jewish authorities who were likewise desirous of maintaining as separate an existence as possible from non-Jews.[1]

During the Middle Ages social contacts between Christians and Jews took a variety of forms. Not only did the two communities conduct business with each other, but they also maintained less formal sorts of contacts, including eating, drinking, discussing theological issues,[2] dancing, and gambling,[3] as well as enjoying the forbidden fruits of love.[4] Naturally, all of these social relations between Jews and Christians were proscribed by the Church, and for a number of reasons.

In the first instance, the Church wished to eliminate any occasion whereby Christians might be induced to accept Judaism or, at the least, to lapse into Judaizing practices. Not only were Christians enjoined to avoid entering into theological disputations with Jews, but they were also prohibited from accepting employment as servants in Jewish homes, and from eating with Jews, since all of these associations constituted opportunities for Jews to influence Christians to adopt Jewish rites and religion.

A second reason for interdicting social contacts between Jews and Christians was the Church's attempt to preclude blasphemous references--implicit, as well as explicit--to Christianity.[5] In addition to combatting more overt manifestations of blasphemous sentiment, such as verbal insults against the articles of the Christian faith, disparaging references in literary works,[6] and the like, the Church sought to eliminate more subtle forms of disrespect.

A further concern of Christian authorities was that close social contact between Jews and Christians would inevitably lead to sexual intermingling.[7] Obviously, the most effective means of insuring that this would not occur was to restrict as much as possible contacts between the two groups. For this reason, inter alia, Christians were specifically forbidden to be servants in Jewish homes, to bathe with non-Christians, and to participate in such activities as might conceivably give rise to immoral associations between the two parties.

In Law 8 Alfonso first forbids Jews from employing Christians as domestic servants, though he permits them to serve Jews as field laborers and as bodyguards when Jews must travel to perilous regions.[8]

> Defendemos que ningund judío non sea osado de tener en su casa cristiano nin cristiana para servirse dellos, como quier que los puedan aver para labrar e enderesçar sus heredades de fuera o para guiarlos en camino quando oviessen a ir por algund logar dubdoso.

This statute reflects the traditional stance of the Church which held it to be an insult to the Christian faith that Jews, who because of their theological views, should be in servile relations to Christians. This principle applied not only to Jews' serving in public office, but also to their holding Christian slaves and servants.[9] Given the general theological ignorance of servants, and their consequent susceptibility to religious influences, Alfonso sought to curb close contacts between Jewish employers and Christian domestics. It is important to note, however, that Alfonso does not completely disallow Jews from keeping Christian servants; he only prohibits them from holding domestic servants and, presumably, nurses.[10] This intent is demonstrated by Alfonso's exclusion of field laborers and bodyguards from his general prohibition of Christian servitude, since in such situations prolonged association of Jews with Christians is substantially reduced.

Innocent III had already underlined the dangers inherent in Christian women serving in Jewish homes:

> Praeterea, cum in Lateranensi concilio sit statutum, ut Judaei, nec sub alendorum puerorum obtentu, nec pro servitio, nec alia qualibet causa, in domibus suis habere permittantur mancipia christiana, sed excommunicentur qui cum eis praesumpserint habitare, ipsi et servos Christianos habere non dubitant, et nutrices, cum quibus eas interdum abominationes exercent, quas te potius punire convenit quam nos deceat explicare.[11]

Thus, to the concern with conversionary activities on the part of Jews, and the insult of Jews exercising authority over Christians, is added the abominable crime of illicit union between infidels and Christians.

Alfonso next turns his attention to the question of Jews and Christians eating and drinking together. In this statute he plainly prohibits Christians from inviting Jews to eat with them, as well as from accepting invitations to partake of food prepared by Jews. Christians are similarly forbidden from drinking wine made by Jews.

> Otrossí defendemos que ningund cristiano nin cristiana non combide a judío nin judía nin resciba otrossí combite dellos para comer nin bever en uno nin beva del vino que es fecho por mano dellos.

The injunction to avoid common meals between Christians and Jews was endorsed by religious authorities from both camps, though for rather different reasons. On the one hand, Jews were forbidden to eat with Christians because of Jewish dietary restrictions. They were compelled to avoid certain types of foods and to observe strict rules for the preparation of those which they were allowed to consume.[12]

If these laws of kashrut prevented Jews from eating with Christians, these, on the other hand, while unrestricted in their choice of foods, were also indicted from eating with Jews. Although Alfonso does not state the rationale for proscribing Jewish-Christian repasts, it is likely that the prohibition is based upon a concern with unrestricted conviviality, conceivably leading to illicit relations between the two groups. In addition, Alfonso attempted to eliminate an implicit insult to Christianity when Jews rejected what they considered Biblically unclean or ritually unfit viands.[13] Christians were also at times prohibited from purchasing meat from Jewish butchers because of charges that Jews sought to poison Christians.[14]

The drinking of wine was likewise a subject of concern to both Christian and Jewish religious authorities. According to the Talmud, a Jew is forbidden to drink wine touched by a non-Jew.[15] There is, however, no proscription against Jews serving wine to Christians. Indeed, during the Middle Ages Jews were actively engaged in the cultivation of vineyards and the subsequent sale of wine to Christians. For Jews, then, halakhic injunctions against partaking of wine touched by non-Jews meant that, if Jews and Christians were to imbibe wine together, it would necessarily be with wine produced and served by Jews alone.

Christians were also prohibited from drinking wine produced by Jews, as the Alphonsine statute indicates. Not only was sexual promiscuity a possible concern on occasions when wine flowed freely, but there was also present the implicit disparagement of Christianity, since Jews had perforce to repudiate wine offered them by Christians. Furthermore, the Church accused Jewish vintners of retaining for themselves the choicest vintage, while selling to Christians wine of inferior quality, some of which would ultimately be used in the Mass.[16]

Continuing his legislative efforts to restrict Jewish-Christian social contacts, Alfonso forbids Jews from bathing with Christians:

"E aún mandamos que ningund judío non sea osado de bañarse en uno con los cristianos." Although Alfonso once again fails to provide any background for his decree, a number of plausible reasons suggest themselves.

There are canonical and civil precedents for the Alphonsine statute. The Church had early decreed that Christians were to avoid, among other social contacts, bathing with Jews:

> Nullus eorum, qui in sacro sunt ordine, aut laicus azima eorum manducet, aut cum eis habitet aut aliquem eorum in infirmitatibus suis uocet, aut medicinam ab eis percipiat, aut cum eis in balneo lauet.[17]

Secular authorities, as well, often indicated in the fuero of a given town or region the days on which Christians, Jews, and Muslims were permitted to visit the public baths. The Fuero de Teruel (1176), for example, declares that Christian males are free to bathe on Tuesday, Thursday, and Saturday, while women may do so on Monday and Wednesday, and Jews and Muslims are strictly limited to visiting the baths on Friday.[18] Clearly, the primary objective of such laws is to prevent social contact between certain groups.

In order to understand why both ecclesiastical and secular authorities insisted that Christians and non-Christians bathe separately, it is well to recall that in the Middle Ages bathing was regarded as much more than a strictly hygienic practice. Not only did water cleanse the body, but, more importantly, it formed the basis of ritualistic purification for Christians, Jews, and Muslims.[19] For example, Christianity taught that baptism eradicated original sin; Judaism prescribed the mikvah (ritual bath) for religious uncleanness; and Islam enjoined ablutions prior to prayer, subsequent to sexual intercourse, and so forth. Therefore, given that bathing could at times be an act of spiritual cleansing, it is logical that Christian authorities would wish to segregate Christians and non-Christians.

Christian feelings of superiority would also be jeopardized by communal bathing. To a certain degree, this sense of superiority was established or reinforced by one's dress. This was particularly true during the Middle Ages when clothing indicated both social status and religious affiliation. In the baths, however, one is divested of all such external manifestations. Nakedness, then, is a leveling agent, reducing all participants in the public bath to an at least outwardly equal condition. Were it not for the enforced separation of Christians from non-Christians, distinctions of class and religion would be almost entirely obliterated, and the vaunted superiority of Christians would be reduced to external equality with all other individuals.

Moreover, bathing was an important social activity. What better place than the bath to relax and engage in pleasant conversation, abandoning temporarily differences which existed between individuals and groups. Under such conditions friendships could be formed between Christians and non-Christians, leading to associations potentially detrimental to Christians and Christianity.

In the final portion of Law 8, Alfonso prohibits Christians from receiving medicines or cathartics manufactured by Jews, though Christians may, on the advice of a knowledgeable Jew,[20] receive medicines produced by Christians well aware of their contents.

> Otrossí defendemos que ningund cristiano non resciba melezinamiento nin purga que sea fecha por mano de judío, pero bien la puede rescebir por consejo de algund judío sabidor solamientre que sea fecha por mano de cristiano que conosca e entienda las cosas que son en ella.

This statute is significant in that it reflects the ambivalence towards Jewish physicians prevalent during the Middle Ages. On the one hand, Jewish doctors were widely esteemed for their generally superior medical knowledge and competence. In fact, the large number of monarchs and popes who used the services of Jewish physicians testifies to the high regard in which they were held.[21] Y. Baer, for instance, notes that Alfonso X enjoyed the services--administrative and healing--of a number of Jewish physicians.[22] On the other hand, the numerous ecclesiastical and secular decrees forbidding Christians from seeking Jewish doctors, along with the frequent charges of Jewish attempts to poison Christians, could easily have instilled a sense of fear and distrust in the Christian populace, especially the lower classes.[23]

It is significant that the Alphonsine statute in no way denies the professional skill of Jewish physicians; indeed, it explicitly allows Christians to seek the medical advice of a knowledgeable Jew. The crux of the matter, then, is that while Jews may be capable physicians, they are untrustworthy. It is for this reason alone that an enlightened Christian should be consulted in order to verify a Jewish doctor's prescriptions; in fact, the pharmacist who makes up the prescription must be a Christian.[24]

In view of the well-established canon law interdicting Christians--at times under pain of excommunication--from entrusting themselves to Jewish physicians, it seems likely that Alfonso was reserving his own right to use Jewish doctors while, at the same time, observing the letter of canon law. Alfonso's Solomonic decree thus grants Jewish physicians a measure of freedom in dealing with non-Jewish patients and provides a safeguard for Christians unsure of the motives of Jewish doctors.

In spite of their thematic diversity, the various statutes constituting Law 8 are unified by their limitation or prohibition of contacts between Christians and Jews. At times the proscriptions of social intermingling between the two groups are absolute, as in the case of bathing and shared repasts; on other occasions they are partial, as in the case of Christians in the service of Jews, and the consultation of Jewish physicians by Christians.

Law 8 is, in some ways, more far-reaching in what it grants than in what it restricts, especially since canon law had already explicitly interdicted all of the varieties of social contacts dealt with by Alfonso in this law. In two cases, permission to Jewish landowners to employ Christians as field laborers and bodyguards, and permission to Christians to consult Jewish physicians, Alfonso has managed to observe the principle of canon law restricting Jewish-Christian relations and, at the same time, reap certain rewards by protecting two influential elements of Jewish society. Jewish physicians are known to have been indispensable to Alfonso, not only because of their renowned curative talents, but also because of their administrative expertise. Jewish landowners, as well, were important to Alfonso for the taxes they contributed to the royal treasury. In addition, the retention of Jewish landowners was a means by which Alfonso sought to stem the ever-encroaching nobles who were likely to absorb the estates of displaced Jews. By supporting Jewish physicians and landowners, Alfonso stood to benefit both economically and politically, a situation not displeasing to Hispanic Jewry, since the alliance of Jews with the central government was decidedly advantageous to both parties.

NOTES (7.24.8)

[1] As Jacob Katz has pointed out, Jews always preferred to live together ". . . because of mutual dependence and attachment to the same communal institutions" (Exclusiveness and Tolerance, p. 132). Indeed, it would be an error to ascribe the development of the Jewish quarter in Western Europe solely to Christian attempts to segregate Jews from Christians. The ghetto as a compulsory Jewish residence dates from 1516 (Baron, A Social and Religious History of the Jews, XI, pp. 87-96).

[2] Christian authorities sought, of course, to prevent such discussions, particularly when the Christian parties were not well-versed in theological matters or Biblical languages. At the Council of Treves (1227), for example, it was decreed that ignorant clergy should not dispute with Jews in the presence of laypersons (canon 8).

[3] With regard to dancing and gambling as pleasures enjoyed by Jews and Christians together, see Grayzel, The Church and the Jews, p. 59; Abrahams, Jewish Life in the Middle Ages, pp. 418f. Note, also, Neuman, The Jews in Spain, II, pp. 14-16.

[4] See the Commentary on Law 9.

[5] See the Commentary on Law 2.

[6] This was one of the primary accusations leveled against the Talmud, a charge which ultimately resulted in its being burnt in Paris in 1240. See, especially, Judah M. Rosenthal, "The Talmud on Trial," *Jewish Quarterly Review*, 47 (1956), 58-76, 145-66. Note, in addition, Daniel Lasker, *Jewish Philosophical Polemics Against Christianity* (New York: KTAV, 1977), for a discussion of numerous instances of Jewish-Christian controversies of a philosophical nature, at times within the context of blasphemous references to Christianity.

[7] Fear of immoral relations between the two groups is, in fact, the oft-stated rationale for prescribing distinguishing marks to identify Jews from Christians. As canon 68 of the fourth Lateran Council stated: "In nonnullis provinciis a Christianis Iudaeos seu Sarracenos habitus distinguit diversitas; sed in quibusdam sic quaedam inolevit confusio, ut nulla differentia discernantur. Unde contingit interdum, quod per errorem Christiani Iudaeorum seu Sarracenorum, et Iudaei seu Sarraceni Christianorum mulieribus commiscentur" (X 5.6.15).

[8] The translation of Lindo (*The History of the Jews of Spain and Portugal*, p. 101) is inaccurate in that he speaks of Christian slaves. The Alphonsine text indicates, however, that the concern is with domestic servants. Lindo translates: "We forbid Jews presuming to have Christian slaves in their houses. . ."

[9] Canonical prescripts include those of Innocent III: "Etsi non displiceat," "Non decet eos," "Etsi Judaeos;" Gregory IX: "Sufficere debuerat," "Judaei quos propria;" Innocent IV: "Impia Judaeorum;" Lateran III: canon 26; Council of Montpellier: canon 9; Council of Avignon: canon 2; as well as many others. In Spain, the Council of Lérida (1229) had also dealt with the question of Christian women cohabiting with Jewish men (Amador de los Ríos, Historia social, política y religiosa, p. 214).

[10] Although Alfonso does not mention nurses specifically in Law 8, numerous references in canon law prohibiting Christian servants and nurses in Jewish homes increase the likelihood that the Alphonsine text includes nurses in its proscription of domestic servants. The Church's concern with Christian nurses in Jewish homes is voiced by Innocent III: "Faciunt enim Christianas filiorum suorum nutrices, cum in die Resurrectionis Dominicae illas recipere corpus et sanguinem Jesu Christi contingit, per triduum; antequam eos lactent, lac effundere in latrinam" (PL, 215, col. 694).

[11] PL, 215, col. 502.

[12] The laws of kashrut (כָּשֵׁר, 'fit' or 'proper') are concerned with the selection of animals for food according to whether they are clean ('tahor') or unclean ('tame'), the preparation of clean animals for food, and the prohibition of mixing meat and milk.

[13] Christian authorities considered it improper--not to say ignorant--for Jews to continue the distinction between clean and

unclean foods, as outlined in Leviticus xi. Since, according to generally accepted Christian theology, Jesus had fulfilled the prophecies of the Old Testament and had proclaimed the New Dispensation, it was only willful ignorance and blind stubbornness on the part of Jews to persist in adhering to the now superseded Mosaic Law.

[14] Charges of poisoning reached fruition during the plague epidemics which devastated much of Europe during the Middle Ages. It was widely held that Jews, with the assistance of lepers and other social outcasts, poisoned the wells of Christians. See, in this regard, Heinrich Graetz, *History of the Jews*, IV (Philadelphia: The Jewish Publication Society of America, 1898), pp. 101-2; Grayzel, *The Church and the Jews*, pp. 72, 74; Philip Ziegler, *The Black Death* (New York, et al.: Harper & Row, 1969), pp. 97-109.

Apostate Jews who, in spite of their conversion to Christianity, retained certain ties with their former coreligionists, at times warned against the duplicity of Jewish physicians. Such is the case with Abner of Burgos, later Alfonso de Valladolid (Luis Suárez Fernández, *Judíos españoles en la Edad Media* [Madrid: Rialp, 1980], p. 170).

[15] Halakhah makes a distinction between *setam yeinam* ('ordinary wine') and *yein nesekh* ('libation wine'). *Yein nesekh* is prohibited because of its association with idol worship; *setam yeinam* because it might have been offered to idols. (The Biblical source for rabbinical commentaries on *yein nesekh* is Deut. xxxii.38.) In addition to fears that wine produced by non-Jews might have been

used in idol worship, there was concern that social mingling involving the drinking of wine by Jews and non-Jews would lead to illicit relations. Among the various Talmudic statements on the subject, see _Sanhedrin_ 106a and _Avodah Zarah_ 36b. In the Mishnah see _Avodah Zarah_ 4.8; 5.1, 2, 7, 8, 9, 10. For a general discussion of the topic, see H. H. Ben-Sasson, "Wine," in _EJ_, XVI, cols. 538-40.

[16] Grayzel, _The Church and the Jews_, pp. 73, 127-8. The Jewish authorities, likewise, were concerned with the sacramental use which might be made of wine sold to Christians (Baron, _A Social and Religious History of the Jews_, IV, p. 165).

[17] _Decretum_, c.28 q.1 c.13 = in Trull. 692. The 'in Trullo' Council of 692 forbade Christians to bathe with Jews (Baron, _A Social and Religious History_, III, p. 194).

[18] _El fuero de Teruel_, p. 255. See, also, the Commentary on Law 5, note 17.

[19] Johannes Zellinger, _Bad und Bäder in der altchristlichen Kirche. Eine Studie über Christentum und Antike_ (Munich: M. Hueber, 1928); Abrahams, _Jewish Life in the Middle Ages_, p. 89; Pierre Galland, _L'Église et l'hygiène au Moyen Âge_ (Paris, 1933)

[20] The translation of Samuel Parsons Scott, repr. in Chazan's _Church, State, and Jew in the Middle Ages_ (p. 194), is misleading in that Scott does not indicate that it is a knowledgeable _Jew_ Christians may consult. Scott translates: "He can take it by the advice of some intelligent person. . ."

[21] Régné, *History of the Jews in Aragon*, nos. 430, 505, 1009, 1117, 1343, 1747, *et passim*; H. Friedenwald, *The Jews and Medicine* (Baltimore: The Johns Hopkins Press, 1944); Cecil Roth, "The Qualification of Jewish Physicians in the Middle Ages," *Speculum*, 28 (1953), 834-43; Baron, *A Social and Religious History of the Jews*, IV, pp. 113f. Juan Manuel, nephew of Alfonso X and author of important literary works, declared: "Et commo quier que Don Salamon, mio físico, es judio, et non puede nin deue seer cabeçalero; pero por quelo fallé siempre tan leal que abes se podria dezir nin creer, por ende ruego a donna Blanca et a mis fijos quel quieran para su seruiçio, et lo crean en sus faziendas; et so çierto que se fallaran bien dello. Ca, si cristiano fuesse, yo se lo que en el dexaria" (Mercedes Gaibrois de Ballesteros, "Los testamentos inéditos de D. Juan Manuel," *Boletín de la Academia de la Historia*, 99 [1931], 46; cited in Don Juan Manuel, *Libro de los estados*, ed. R. B. Tate and I. R. Macpherson [Oxford: Clarendon Press, 1974], p. 299).

[22] *A History of the Jews in Christian Spain*, I, p. 121. See, also, pp. 50, 55, 122, *et passim*.

[23] See, for example, the Council of Treves (1227), canon 8; the Council of the Province of Beziers (1246), canon 43; the Council of Albi (1254), canon 69. Note, as well, the following *constitución* from Zamora (1313): ". . . que no usen [los judíos] de física con los cristianos, aunque sean muy letrados y probados. . ." (León Tello, *Judíos de Toledo*, II, p. 98).

[24] *Supra*, no. 23.

Commentary 7.24.9

Within the realm of social contacts between Jews and Christians during the Middle Ages, the question of sexual intermingling is worthy of particular attention. Indeed, it is one of the few issues on which both Jewish and Christian authorities are in substantial agreement regarding its prohibition, though ofttimes for different reasons. As a result of this shared concern with illicit relations, we possess not only a large corpus of Christian legislation dealing with the problem, but we also have many Jewish sources concerned with Jewish-Christian intimacy.

The prohibition of sexual mingling between Jews and non-Jews, as well as between Christians and non-Christians--whether before or after marriage--is common to both Jewish and Christian law and tradition. In the history of Judaism, particularly from the deuteronomic period forward, the proscription of mixed marriages for social, religious, racial, or political reasons, has been a characteristic feature of Jewish teaching.[1] It is apparent, nevertheless, that the principle of separation was at times violated and Jews would consort with persons of another faith. Such infractions were uniformly condemned by the religious authorities.[2]

Christianity from its inception also forbade the carnal union of Christians and non-Christians. As St. Paul declared in II Corinthians vi.14: "Nolite iugum ducere cum infidelibus. Quae enim participatio iustitiae cum iniquitate? Aut quae societas luci ad tenebras?"[3] The same posture is reflected in conciliar decrees prohibiting intermarriage between Christians and Jews, of which canons 16 and 78 of the Council of Elvira (ca. 300) constitute the first:

> Haeretici si se transferre noluerint ad ecclesiam catholicam, ne ipsis catholicas dandas esse puellas; sed neque iudaeis neque haereticis dare placuit, eo quod nulla possit esse societas fideli cum infidele. Si contra interdictum fecerint parentes, abstineri per quinquennium placet. (16)[4]

> Si quis fidelis habens uxorem cum iudaea vel gentili fuerit moechatus, a communione arceatur. Quod si alius eum detexerit, post quinquennium acta legitima poenitentia poterit dominicae sociari communioni. (78)[5]

Decrees against mixed marriages likewise early formed part of secular legislation, as evidenced by the appearance of such laws in the _Codex_ _Theodosianus_ (3.7.2; 16.8.6)[6] and, later, in the _Codex_ _Justinianus_ (1.4.16; 1.9.6).[7] Of particular interest is the decree of Theodosius equating intermarriage between Jews and Christians with adultery (_CJ_ 1.9.6) and allowing for such unions to be denounced by anyone, and not solely by relations of the bride, as had previously been the case (_CT_ 3.7.2; 9.7.5).[8] The _Codex_ _Theodosianus_ also includes a law by Constantius (339) prohibiting Jews from marrying Christian women working in the imperial factories (_gynaecea_) under pain of death (16.8.6).[9] Finally, Theodosius forbids Jews to follow their own religious practices in marriage and orders them to refrain from polygamy (_CJ_ 1.9.7).[10]

Ecclesiastical councils from the fifth century on repeated the prohibitions regarding mixed marriages and sexual intermingling expressed at the Council of Elvira and in the Theodosian and Justinian Codes. Among the more important councils at which the issue arose, are Chalcedon (451), canon 14; Orleans II (533), canon 19; Clermont (535), canon 6; Orleans III (538), canon 13; Toledo III (589), canon 14; Toledo IV (633), canon 63; Toledo X (656), canon 7; Toledo XVII (694), canon 8. It is apparent that by the eleventh century, when juridical activity began to flourish in Europe, canonists already possessed a large corpus of conciliar decrees devoted to the problem of sexual relations between Jews and Christians.[11] As we shall see, the essential spirit of the prohibitions was later accepted by Alfonso X and incorporated into the Siete Partidas.[12]

By the thirteenth century, then, there existed a profusion of laws--secular and ecclesiastical--regulating intermarriage and sexual mingling between Christians and Jews. Indeed, one of the principal reasons given for the fourth Lateran council's mandate that Jews should wear clothing distinguishable from that of Christians is to obviate mistaken sexual relations on the part of both Jews and Christians:

> In nonnullis provinciis a Christianis Iudaeos seu Sarracenos habitus distinguit diversitas; sed in quibusdam sic quaedam inolevit confusio, ut nulla differentia discernantur. Unde contingit interdum, quod per errorem Christiani Iudaeorum seu Sarracenorum, et Iudaei seu Sarraceni Christianorum mulieribus commiscentur. Ne igitur tam damnatae commixtionis excessus per velamen erroris huiusmodi ulterioris excusationis possint habere diffugium: statuimus, ut tales utriusque sexus in omni Christianorum provincia et omni tempore qualitate habitus publice ab aliis populis distinguantur.[13]

As we shall see, the secular arm also took pains to restrict illicit intimacy between the two groups. In Law 11 of the present title, Alfonso reflects the aforecited canonical legislation in his decree that Jews wear distinguishing clothing in order to be recognized by Christians.

In Law 9, however, Alfonso is concerned not with inadvertent sexual intermingling, but, rather, with brazen carnal relations between Jews and Christians. In the first instance, the king addresses Jews who are so insolent as to lie with Christian women:

> Atrevencia e osadía muy grande fazen los judíos que yazen con las cristianas. E por ende mandamos que todos los judíos contra quien fuere provado daquí adelante que tal cosa ayan fecho, que mueran por ello. . .

In the following clause Alfonso provides the rationale for the interdiction of Jewish-Christian intimacy, and the justification for the severe punishment of Jews who transgress the law:

> . . . ca si los cristianos que fazen adulterio con las mugeres casadas merescen por ende muerte, mucho más la merescen los judíos que yazen con las cristianas, que son espiritualmientre esposas de Nuestro Señor Jhesu Christo por razón de la fe e del baptismo que rescibieron en nombre dél.

Illicit relations between Jewish males and Christian women does not merely constitute adultery,[14] but also the linking of unbeliever with believer. It is the joining of Jews--"que non creen la fe de Nuestro Señor Jhesu Christo"[15]--with Christians who, by virtue of their genuine faith and baptism, are spiritually espoused to the very one whom the Jews reject. Alfonso thus extends the theological concept of nuns being married to Christ to Christian women in general.[16] Finally, inherent in the prohibition of relations between Jews and Christians--especially intermarriage between the two--is the theological dictum that the slave (the Jew) should not rule over the master (the Christian). Given the social, religious, and legal standing of women in the Middle Ages, the union of a Jewish male with a Christian women would necessarily imply an inferior, subservient status for the wife. For all of these reasons Alfonso decrees the death penalty for Jewish males who violate his law.

Likewise, Christian women who are a party to such unsanctioned relationships do not escape punishment by the civil authorities:

> E la cristiana que tal yerro como este feziere, non tenemos por bien que finque sin pena. E por ende mandamos que si fuere virgen o casada o biuda o muger baldonada que se dé a todos, que aya aquella misma pena que dixiemos en la postrimera ley del título de los moros que deve aver la cristiana que yoguiere con moro.[17]

It is clear that the primary concern of the law is with illicit sexual relations between two religious groups, rather than with adultery or sexual immorality in general. All classes of women--virgins, spouses, widows, and profligate whores--are liable to punishment for engaging in carnal intercourse with Jewish males. The penalty is the same as for those women who lie with Moors:

> Si el moro yoguiere con cristiana virgen, mandamos quel apedreen por ello: et ella por la primera vegada que lo ficiere, pierda la meytad de sus bienes, et herédelos el padre o la madre della, o el abuelo o el

> [sic] abuela si los hobiere: et si non los hobiere háyalos el rey. Et por la segunda pierda todo quanto hobiere, et herédenlo los sobredichos herederos si los hobiere; et si non los hobiere, herédelos el rey, et ella muera por ello: eso mismo mandamos de la vibda que esto ficiere. Et si yoguiere con cristiana casada sea apedreado por ello, et ella sea metida en poder de su marido que la queme, o la suelte, o faga della lo que quisiere. Et si yoguiere con muger baldonada que se dé a todos, por la primera vez azótenlos de so uno por la villa, et por la segunda vegada que mueran por ello.[18]

From the above law it is obvious that virgins and widows are treated in like manner, while married women are subject to any penalty imposed by their husbands, and prostitutes and their Jewish or Moorish consorts are publicly flogged for the first offense and are executed if they repeat their crime. In all but the last instance the non-Christian offender is immediately liable to the death penalty for engaging in sexual relations with Christian women. The same is potentially true for married Christian women, though, depending upon the decision of their husbands, they could be exonerated. Virgins, widows, and prostitutes are allowed two infractions of the law before they are liable to the death penalty. Once again it is evident that Alfonso desires to prohibit adulterous relations, and particularly those involving non-Christian males and Christian females.[19] By virtue of the more stringent penalties, the onus to refrain from such practices rests primarily upon the Jewish or Moorish male.

NOTES (7.24.9)

[1] "A mixed marriage is a marriage of a non-Jew to a Jew, i.e., one born of Jewish parents, or whose mother alone was Jewish, or who has become a proselyte in accordance with Jewish law" (EJ, XII, col. 168). The classic Biblical text upon which the sages constructed their positions regarding mixed marriages is Deuteronomy vii.3: "Neither shalt thou make marriages with them; thy daughter thou shalt not give unto his son, nor his daughter shalt thou take unto thy son." For Talmudic references to mixed marriages, see EJ, XII, col. 168. Biblical and Talmudic laws are discussed in detail in Louis M. Epstein, Marriage Laws in the Bible and the Talmud (Cambridge, Mass.: Harvard University Press, 1942), pp. 145-219; Sex Laws and Customs in Judaism (New York: Bloch Publishing Co., 1948), pp. 172-3. See, furthermore, M. Mielziner, The Jewish Law of Marriage and Divorce in Ancient and Modern Times and its Relation to the Law of the State, 2nd ed. (New York-Cincinnati: Bloch Publishing Co., 1901); and Shohet, The Jewish Court in the Middle Ages, p. 88.

[2] Although most studies on Jewish social life during the Middle Ages stress the probity and moral uprightness of the Jews, there

are indications that sexual intermingling between Jews and non-Jews was not altogether unknown. The renowned Rabbi Solomon ben Adreth of Barcelona (1235-1310) inveighed against the immorality rampant in his time: "Today unruly persons are on the increase, and there is no one to reproach his fellow man and to say to one corrupting his place: 'Wherefore hast thou done so?' The daughters in Israel are gentle, but the generation renders them uncouth" (Epstein, *Studies in the Communal Life of the Jews of Spain*, p. 88). Rabbi Solomon b. Adreth's contemporary and leader of Castilian Jewry, Rabbi Asher b. Yehiel (c. 1250-1328), also addressed the question of moral laxness. On one occasion in his responsa Rabbi Asher dealt with the problem of a Jewess involved in sexual relations with an Arab (*She'elot u-Teshubot le-Harav Rabenu Asher Yehiel* [Vilna, 1881; repr. New York: Grossman's Publishing House, 1954]; 18.13). The venerable sage was also concerned with the problem of Jewish prostitutes within the Jewish community (Aaron Wise, *The Historical Material in the Responsa of R. Asher B. Yehiel and His Son R. Judah* [Unpubl. Diss., Jewish Theological Seminary, 1937], p. 90). In this regard, note also Neuman, *The Jews in Spain*, II, pp. 11f., 278f. The responsa of Rabbi Meir of Rothenburg (c. 1215-1293) also provide examples of sexual intermingling between Jews and non-Jews (Irving A. Agus, *Rabbi Meir of Rothenburg: His Life and His Works as Sources for the Religious, Legal, and Social History of the Jews of Germany in the Thirteenth Century*, 2nd ed. [New York: KTAV, 1970], pp. 279-82). David Romano cites a number of interesting examples of Jews converting to Islam during the thirteenth century ("Conversión de judíos al islam [Corona de Aragón 1280-1284]," *Sefarad*, 36 [1976], 333-7). One of the reasons for the proscription of sexual mingling between Jews and non-Jews was that the offspring of such unions were barred from the Jewish community. For an examination of the role of the Bet-Din (Jewish court of law) in adjudicating cases of suspected mixed marriages, see Jacob Mann, "The Power of the Bêt-Din and the Organization of the Communities," *The Jewish Quarterly Review*, 10 (1919), 335-65; esp. 352-4.

[3] See, in addition, I Corinthians v.9-13, as well as other Scriptural texts upon which Christian religious authorities based their varying attitudes towards Jews and Judaism, in Synan, *The Popes and the Jews*, pp. 151-4. The Christian position regarding mixed marriages was begun by the writers of the New Testament and developed in the works of the early Church Fathers, though it is in the councils that we see the seeds of a consistent policy concerning mixed marriages. For a brief compendium of the opinions of the early Fathers on mixed marriages, see David J. Boyle, *The Juridic Effects of Moral Certitude on Pre-Nuptial Guarantees: A Historical Synopsis and Commentary* (Washington, D.C.: Catholic University of America, 1942), pp. 3-5. The question of mixed marriages has received considerable attention on the part of scholars in the area of canon law. In this regard, see John Fulton, *The Laws of Marriage, Containing the Hebrew Law, the Roman Law, the Law of the New Testament, and the Canon Law of the Universal Church Concerning the Impediments of Marriage and the Dissolution of the Marriage Bond* (New York: E. & J. B. Young & Co., 1883),

esp. pp. 82-96; Francis J. Schenk, *The Matrimonial Impediments of Mixed Religion and Disparity of Cult* (Washington, D.C.: Catholic University of America, 1929), pp. 3-44; Jean Dauvillier, *Le Mariage dans le droit classique de l'église depuis le décret de Gratien (1140) jusqu'à la mort de Clément V (1314)* (Paris: Librairie du Recueil Sirey, 1933), esp. pp. 183-4; Robert J. White, *Canonical Ante-Nuptial Promises and the Civil Law: An Historical Synopsis and Commentary* (Washington, D.C.: Catholic University of America, 1934), pp. 1-8; Francis James Burton, *A Commentary on Canon 1125, Together with a History of the Legislation Contained in the Canon* (Washington, D.C.: Catholic University of America, 1940), pp. 1-13; Charles Edward Smith, *Papal Enforcement of Some Medieval Marriage Laws* (Louisiana: Louisiana State University Press, 1940); Joseph F. Doherty, *Moral Problems of Interracial Marriage* (Washington, D.C.: Catholic University of America, 1949); A. H. van Vliet and C. G. Breed, *Marriage and Canon Law: A Concise and Complete Account* (London: Burns & Oates, 1964).

For additional studies on attitudes of the Church Fathers towards Jews and Judaism, see S. Krauss, "The Jews in the Works of the Church Fathers," *Jewish Quarterly Review*, o.s., 5 (1892), 122ff., 6 (1893), 82ff.; A. Lukyn Williams, *Adversus Judaeos: A Bird's-Eye View of Christian "Apologiae" Until the Renaissance* (Cambridge: Cambridge University Press, 1935); Blumenkranz, *Die Judenpredigt augustins*; "Augustin et les juifs, Augustin et le Judaïsme," *Recherches Augustiniennes*, 1 (1958), 225-41; *Les Auteurs chrétiens latins du moyen âge sur les juifs et le judaïsme*

(Paris—La Haye: Mouton & Co., 1963); Marcel Simon, *Verus Israel: Étude sur les relations entre chrétiens et juifs dans l'empire romain (135-425)* (Paris: Éditions E. de Boccard, 1964), esp. pp. 256-63; Synan, *The Popes and the Jews in the Middle Ages*, pp. 31-50.

[4] Vives, *Concilios visigóticos e hispano-romanos*, pp. 4-5.

[5] *Ibid.*, p. 15.

[6] "Ne quis Christianam mulierem in matrimonio Iudaeus accipiat, neque Iudaeae Christianus coniugium sortiatur. Nam si quis aliquid huiusmodi admiserit, adulterii vicem commissi huius crimen obtinebit, libertate in accusandum publicis quoque vocibus relaxata" (3.7.2).

"Quod ad mulieres pertinet, quas Iudaei in turpitudinis suae duxere consortium in gynaeceo nostro ante versatas, placet easdem restitui gynaeceo idque in reliquum observari, ne Christianas mulieres suis iungant flagitiis vel, si hoc fecerint, capitali periculo subiugentur" (16.8.6).

[7] "Si legibus prohibitae non sint speratae nuptiae et post arras sponsalicias sponsa coniugium sponsi propter religionis diversitatem recusaverit, si quidem probatum fuerit ante datas easdem arras sponsalicias hoc idem mulierem vel parentes eius cognovisse, sibi debeant imputare, si vero horum ignari sponsalicias arras susceperint vel post arras datas talis causa paenitentiae intercesserit, isdem tantummodo redditis super alterius simpli poena liberi custodiantur, quod simili modo etiam de sponsis super recipiendis nec ne arris praestitis custodiri censemus" (1.4.16). *CT* 3.7.2 cited above = *CJ* 1.9.6.

[8] *CT* 3.7.2 and 9.7.5 are identical. The text of the legislation is cited above, note 6.

[9] See note 6.

[10] "Nemo Iudaeorum morem suum in coniunctionibus retinebit nec iuxta legem suam nuptias sortiatur nec in diversa sub uno tempore coniugia conveniat."

[11] Additional information regarding conciliar decrees through the thirteenth century may be found in White, *Canonical Ante-Nuptial Promises and the Civil Law*, pp. 5-8; Katz, *The Jews in the Visigothic and Frankish Kingdoms*, pp. 88-91; Boyle, *The Juridic Effects of Moral Certitude on Pre-Nuptial Guarantees*, pp. 5-14; Antonio García y García, *Historia del derecho canónico: El primer milenio*, I (Salamanca: n.p., 1967), pp. 251-2.

[12] The Visigoths continued to enforce the secular and ecclesiastical strictures against mixed marriages, as laid down in Roman law (Juster, *La Condition légale des juifs sous les rois visigoths*, pp. 43-5). In his *Breviarium* Alaric reiterates the view that intermarriage between Jews and Christians is an adulterous union (3.7.2; 9.4.4). Later, Receswinth enacted the death penalty for those individuals who celebrated marriage with Jewish rites (*Lex Visigothorum* 12.2.6). In 638 Chintila exacted from the baptized Jews of Toledo a *placitum* in which, among other promises, they agreed to avoid any contact with unbaptized Jews (*Lex Visigothorum* 12.2.17). In the ninth century, Agobard, bishop of Lyons, declared that Christian women were often led astray by Jews who maintained them in their employ (Katz, *The Jews in the Visigothic Kingdoms*, pp. 90-1).

[13] X 5.6.15. See, also, Grayzel, The Church and the Jews, pp. 60-70; and, for detailed discussion of the Lateran Councils, see Raymonde Foreville, Latran I, II, III et Latran IV (Paris: Éditions de l'Orante, 1965). The frequency of intermarriage between Christians and non-Christians is still unknown, and will likely remain an unanswered question, given the necessarily clandestine nature of such unions. Note, for instance, the brief comments in this regard in R. A. Fletcher, The Episcopate in the Kingdom of León in the Twelfth Century (Oxford: Oxford University Press, 1978), pp. 211-2.

[14] With regard to the theme of adultery in medieval Spanish legal codes, see José Peco, El uxoricidio por adulterio: Estudio de una modalidad del artículo 82 del código penal (Buenos Aires: Librería Jurídica, 1929), pp. 208-23; Mario J. Machado Carrillo, El adulterio en el derecho penal: Pasado, presente y futuro (Madrid: Universidad Complutense de Madrid, 1978), pp. 41-6.

[15] The phrase is taken from the introductory law of title xxiv.

[16] There was some question as to whether marriages between Christians and heretics, pagans, and Jews were valid. Some authorities, basing their opinions upon Gratian (who in turn based his opinion on that of St. Ambrose), declared such unions invalid. The pertinent passage in the Decretum is as follows: ". . . Illa itaque auctoritate iubentur separari ab invicem qui contra Dei ecclesiae decretum copulati sunt, utpote infideles cum fidelibus, consanguinei cum consanguineis, vel affines cum affinibus. Hii omnes, si sibi invicem copulati fuerint, separandi sunt" (C. 28 q.1 p.c.

14, § 3). An admirable summary of the diriment impediments of disparity of worship and of mixed religion is found in Boyle, *The Juridic Effects of Moral Certitude on Pre-Nuptial Guarantees*, pp. 10-14.

[17] The *Fueros de Sepúlveda* are equally rigorous in their condemnation of Jewish-Christian intimacy, specifying burning as the penalty for infraction of the law by the woman: "Todo iudío que con christiana fallaren sea despennado et ella quemada" (*Los fueros de Sepúlveda*. *Edición crítica y apéndice documental*. *Estudio histórico-jurídico*. *Estudio lingüístico y vocabulario*. *Los términos antiguos de Sepúlveda*, ed. Emilio Saez, Rafael Gibert, Manuel Alvar, Atilano G. Ruiz-Zorrilla [Segovia: Diputación Provincial de Segovia, 1953], p. 90). The *Fuero de Usagre* establishes explicit judicial procedures in the case of Jewish (male) and Christian (female) adultery: "Nullus homo, similiter alcaldes, que tomaren iudio con xristiana, si ei firmaren con II. xristianos et I. iudio, uel II. iudios et I. xristiano, que en uno los tomaron, preste. Sin autem, non preste. Toda xristiana que tomaren con iudeo o la aduxerint super consilium factum per prender cum iudeo, ipsa iusticia faciant de uno quam de altero" (p. 138). See, also, Peco, *El uxoricidio por adulterio*, pp. 208-23.

[18] *Siete Partidas*, VII.xxv.10: "Qué pena merescen el moro et la cristiana que yoguieren de consuno."

[19] The question of intermarriage between Christian and Jew was still of great importance in the fifteenth century, as can be seen in the following heraldic inscription:

Tú que de nación eres
noble christiano bieio
limpio por toda biya,
no te cases con iudiya
aunque bistas de peleio.

(Francisco Cantera Burgos, "La obsesión de 'limpieza de sangre' en un lema heráldico montañés," *Sefarad*, 29 [1969], 23-30.)

Commentary 7.24.10

In Law 10 Alfonso turns his attention to the issue of Jews who purchase or hold Christian slaves, or convert non-Christian slaves to Judaism. This law is an amplification of the well-established precept, mentioned in Law 2, prohibiting Jews from engaging in proselytism.[1]

According to the Torah, Jewish masters must circumcise their slaves (Gen. xvii.12-13), and ensure that they observe the Sabbath and other holidays (Ex. xx.10; xxiii.12; Deut. v.14-15). These laws obtained from the time of Abraham up to and including the Roman era.[2] By this time, however, Jews had expanded their conversionary activity well beyond the household and had become known for their sedulous proselytizing.[3]

After the conversion of Constantine the Great to Christianity, it became increasingly difficult for Jews to pursue their missionary endeavors. Nevertheless, a considerable body of secular and canon legislation attests to Jewish proselytizing throughout the Middle Ages, though the degree of success which attended these efforts is as yet a matter of considerable debate.[4] It would appear that by the thirteenth century overt missionizing on the part of Jews was almost nonexistent, though, as Law 10 indicates, there was some conversion of non-Christian slaves to Judaism.[5]

Although Jews held slaves throughout the period of the Roman Empire, it is only in the fourth century that laws appear regulating Jewish ownership of both Christian and non-Christian slaves. In 335 Constantine decreed that if a Jew acquired a slave and circumcised him, the slave was to go free.[6] The emperor also stipulated that Christians held by Jews could become the property of the Church.[7] Two years after the death in 337 of Constantine, his son, Constantius, ordered that non-Jewish slaves acquired by Jews were to revert to the royal fisc and the culpable Jews punished with death if they circumcised the slave.[8] In 384 it was declared that no Jew was to purchase Christian slaves, nor was he to circumcise those already in his possession. The law further specified that Christiani should redeem the slave from the Jew by means of a fair payment to compensate the latter for his loss.[9]

The Roman emperors of the fifth century generally followed the legal rulings of their predecessors concerning Jewish slaveholding, decreeing in 415 that Christian slaves held by Jews should be handed over to the Church.[10] However, this law had scarcely been promulgated when it was ordered that Jews were in no wise to purchase Christian slaves, since these should not be defiled by impious purchasers (423).[11]

Over a century of legislation involving Jews and their slaves, both Christian and non-Christian, is condensed in the following law from the Codex Justinianus, in which Jews are prohibited, on pain of death, from acquiring Christian slaves:

> Iudaeus servum Christianum nec comparare debebit nec largitatis vel alio quocumque titulo consequatur. Quod si aliquis Iudaeorum mancipium vel Christianum habuerit vel sectae alterius seu nationis crediderit ex quacumque causa possidendum et id circumciderit, non solum mancipii damno multetur, verum etiam capitali sententia puniatur, ipso servo pro praemio libertate donando.[12]

This law is particularly important because it served as the foundation for the precedent-setting legislation of Pope Gregory I regarding Jewish slaveholding.[13] Gregory was probably also influenced by canon 14 of the third council of Toledo (589).[14] The following statute proclaimed by Gregory was to remain one of the most authoritative statements on the subject of Jewish ownership of Christian slaves:

> Nulli Iudaeo liceat Christianum mancipium in suo dominio retinere: sed, si qui apud eos inveniuntur, libertas eis servetur.[15]

The Lex Romana Visigothorum also includes legislation reflecting late-Roman, as well as conciliar decrees:

> Nulli Iudaeo liceat christianum mancipium conparare vel donatum accipere. Quod si conparaverit vel donatum acceperit et eum circumciderit, et pretium perdat, et quem acceperat liber permaneat. Ille autem, qui christianum mancipium circumciderit, omnem facultatem suam amittat et fisco adgregetur.[16]

Recaredo and his successors pursued the policy advocated in the above law to a greater or lesser degree, depending upon a variety of religious, political, and economic factors.[17]

By the twelfth century, then, as juridical activity flourished in Europe, canon law in the area of Jewish slaveholding had become firmly established, as evidenced by such legislation in the Decretales (X 5.6.1, 2).[18]

Alfonso the Wise was obviously well aware of this prior secular and religious legislation when he included Law 10 in the collection of laws governing Jewish-Christian relations. In fact, the Alphonsine statute incorporates the essential elements of the germane laws from the Codex Justinianus (1.10.1), the third council of Toledo (canon 14), and the Decretales (X 5.6.1, 2).

The initial, and most important, part of Law 10 prohibits Jews from purchasing or keeping Christian slaves: "Comprar nin tener non deven los judíos por sus siervos omne nin muger que fuessen cristianos." A Christian slave acquired by a Jew is to be freed without having to pay any of his original purchase price, even if at the time of the purchase the Jew was unaware that the slave was a Christian:

> E si alguno contra esto fiziere, deve el cristiano seer tornado en su libertad e non deve pechar ninguna cosa del precio que fue dado por él, maguer el judío non sopiesse quando lo compró que era cristiano.

On the other hand, if a Jew knowingly purchased a Christian slave, and then required the Christian to serve him, the Jew should suffer the death penalty: "Mas si sopiesse el judío que lo era quando lo compró e se serviesse después dél como de siervo, deve el judío morir por ende."[19]

Alfonso also explicitly prohibited Jews from converting non-Christian slaves, ". . . maguer sean moros o moras o dotra gente bárbara." It is important to note that the penalty for converting non-Christians to Judaism is considerably more lenient than that prescribed for converting Christians. In the first instance, the slave is permitted to go free and the Jew suffers no additional punishment; in the second, the slave is freed and the Jew is condemned to die.

Those Moors who adopt Christianity while in servitude to Jews are to be freed:

> Otrosi decimos que qualquier destos sobredichos [judío nin moro nin herege] que hobiere siervo que non fuese de nuestra ley, si aquel siervo se tornase cristiano, que se face por ende libre luego que se face batear et rescibe la nuestra fe, et non es tenudo de dar por sí ninguna cosa á aquel cuyo era ante que se tornase cristiano.[20]

Alfonso also adopts the principle established in civil (*CT* 3.1.5)[21] and religious law (*Decretales* 5.6.1)[22] that Christians should redeem their coreligionists from slavery.[23] At the same time, Alfonso stipulates that the Jewish slaveholder should not suffer total loss if he purchased the slave with the intention of reselling him within three months, during which time the slave converts to Christianity. Rather, the slave himself, or the Christian who converted him, should pay twelve *maravedís* to the Jew.[24] In the event the newly-converted Christian is unable to reimburse the Jew, the former is to serve his master, though not as a slave, for an appropriate amount of time. If the Jew does not sell the servant within the stipulated period of three months, the Jew's claim becomes void.[25]

In conclusion, the Alphonsine legislation contained in Law 10 is clearly derived from civil and religious decrees. In his legal formulation, Alfonso did not alter the substance of canonical prescripts forbidding Jewish slaveholding or compensating Jews for the loss of slaves who converted to Christianity. However, in order to decrease the chance of financial loss to Jewish slavedealers, Alfonso sought to go beyond certain restrictive features of canon law by allowing Jews to retain converted Christians as servants, though not as slaves, for a limited time.

NOTES (7.24.10)

[1] "Otrossí se deven mucho guardar de non predicar nin convertir a ningund cristiano que se torne judío alabando su ley e denostando la nuestra." As the remainder of Law 2 indicates, the primary emphasis of this section of the law is on suppressing derision of Christian beliefs, rather than on Jewish proselytizing per se. As we have seen, Law 7 is likewise devoted to the question of conversion, but it is addressed to Christians, whereas Law 10 is directed to Jews.

[2] For more detail, see Haim Herman Cohn, "Slavery," in *EJ*, XIV, cols. 1655-60; as well as Baron, *A Social and Religious History of the Jews*, IV, pp. 187-90.

[3] The question of slavery during the time of the Roman Empire is enormously complex, not only because of the vast temporal and geographical span involved, but also as a result of the considerable

body of laws drafted to deal with all aspects of the issue. Comprehensive works on the subject include W. W. Buckland, *The Roman Law of Slavery. The Condition of the Slave in Private Law from Augustus to Justinian* (Cambridge, 1908; repr. New York: AMS Press, 1969); Blumenkranz, *Juifs et chrétiens dans le monde occidental*, pp. 184-7; Juster, *Les Juifs dans l'empire romain*, II, pp. 71-7; Boaz Cohen, *Jewish and Roman Law: A Comparative Study*, 2 vols. (New York: Jewish Theological Seminary, 1966), esp. I, pp. 159-278; Gérard Boulvert, *Esclaves et affranchis imperiaux sous le haut-empire romain: rôle politique et administratif* (Naples: Jovene, 1970); and Olis Robleda, S.J., *Il diritto degli schiavi nell'antica Roma* (Rome: Pontificia Università Gregoriana, 1976). Baron discusses the question of slavery during the centuries following the collapse of the Roman Empire within the context of economic transformations affecting Jews (*A Social and Religious History of the Jews*, IV, pp. 187-96.

[4] See, for instance, Louis I. Newman, *Jewish Influence on Christian Reform Movements* (New York: Columbia University Press, 1925), pp. 393-8; William Braude, *Jewish Proselytizing in the First Five Centuries of the Common Era* (Providence: Brown University Press, 1940); Blumenkranz, *Juifs et chrétiens dans le monde occidental*, pp. 209-11; and Kenneth Stow, "The Church and the Jews: From St. Paul to Paul IV," in *Bibliographical Essays in Medieval Jewish Studies*, pp. 146-7; Baer, *A History of the Jews in Christian Spain*, I, pp. 181-2; II, p. 10.

[5] Baer, A History of the Jews in Christian Spain, I, pp. 415-7; Simḥa Assaf, "Slavery and the Slave Trade among the Jews in the Middle Ages" [in Hebrew], Zion, 4 (1938-39), 91-125.

[6] "Si quis Iudaeorum Christianum mancipium vel cuiuslibet alterius sectae mercatus circumciderit, minime in servitute retineat circumcisum, sed libertatis privilegiis, qui hoc sustinuerit, potiatur" (CT 16.9.1).

[7] "Si Christianum vel cuiuslibet sectae hominem ingenuum servumve Iudaica nota foedare temptaverit vel ipse vel quisquam Iudaeorum, legum severitati subdatur. Mancipia quoque Christianae sanctitatis si qua aput se retinet, secundum Constantinianam legem ecclesiae mancipentur" (CT 16.8.22).

[8] "Si aliquis Iudaeorum mancipium sectae alterius seu nationis crediderit conparandum, mancipium fisco protinus vindicetur: si vero emptum circumciderit, non solum mancipii damno multetur, verum etiam capitali sententia puniatur. Quod si venerandae fidei conscia mancipia Iudaeus mercari non dubitet, omnia, quae aput eum repperiuntur, protinus auferantur nec interponatur quicquam morae, quin eorum hominum qui Christiani sunt possessione careat" (CT 16.9.2).

[9] "Ne quis omnino Iudaeorum Christianum conparet servum neve ex Christiano Iudaicis sacramentis adtaminet. Quod si factum publica indago conpererit, et servi abstrahi debent et tales domini congruae atque aptae facinori poenae subiaceant, addito eo, ut, si qui apud Iudaeos vel adhuc Christiani servi vel ex Christianis Iudaei repperti fuerint, soluto per Christianos conpetenti pretio

ab indigna servitute redimantur" (CT 3.1.5). At the fifth council of Arles (554) a similar provision was enacted to deal with Christian slaves in the hands of Jews. The first council of Mâcon (583) stipulated twelve solidi as appropriate reimbursement. Later, Gregory IX reiterated the principle providing for remuneration to Jewish slaveholders whose slaves convert to Christianity: "Praesenti concilio Deo auctore sancimus, ut nullum Christianum mancipium Iudaeo deinceps serviat, sed datis XII solidis pro quolibet bono mancipio, ipsum mancipium quicunque Christianorum, seu ad ingenuitatem seu ad servitium, licentiam habeat redimendi. Et si Christianus fieri desiderat, et non permittitur, idem fiat, quia nefas est quem Christus Dominus redemit blasphemum Christi in servitutis vinculis detinere" (X 5.6.1).

[10] (CT 16.8.22; cited in note 7.) Compare, however, the following law from the same year: "Absque calumnia praecipimus Iudaeis dominis habere servos Christianos hac dumtaxat condicione permissa, ut propriam religionem eos servare permittant" (16.9.3).

[11] "Christiana mancipia Iudaeorum nemo audeat comparare. Nefas enim aestimamus religiosissimos famulos impiissimorum emptorum inquinari dominio. Quod si quis hoc fecerit, statutae poenae absque omni erit dilatione obnoxius" (CT 16.9.5). See CT 16.9.4 for a similar statute.

[12] CJ 1.10.1.

[13] Katz, "Pope Gregory the Great and the Jews," Jewish Quarterly Review, 24 (1933-34), 127-33.

[14] Ibid., p. 133.

[15] X 5.6.2. The remainder of the text is as follows: "Hi vero, qui in possessionibus eorum sunt, licet [et] ipsi legum districtione sint liberi, tamen, quia colendis terris eorum diutius adhaeserunt, utpote conditione loci debentes, ad colenda rura remaneant, consuetas pensiones praedictis viris praebentes. Cuncta etiam, quae de colonis vel originariis iura praecipiunt, peragant, et nihil eis extra hoc oneris [amplius] indicatur. Quodsi quisquam Iudaeorum aliquem de his vel ad alium transferre locum, vel ad aliud obsequium retinere voluerit: ipse sibi imputet, qui ius colonarium temeritate sua, et ius dominii sibi iuris severitate damnavit."

[16] 12.2.12.

[17] Blumenkranz, Juifs et chrétiens dans le monde occidental, p. 187.

[18] See notes 9 and 15; also, X 5.6.4.

[19] The law is explicit in referring to slaves; Jews could hire field laborers and bodyguards, as indicated in Law 8.

[20] SP, IV.xxi.8.

[21] Cited in note 9.

[22] Cited in note 9.

[23] This is apparent from the following extract from SP, IV.xxi.8: "Pero si lo comprase con entencion de lo vender, débelo facer fasta tres meses: et si ante que los tres meses se compliesen, trabajándose el señor de venderle, se tornase cristiano, non perderie por

ende el judío ó el moro todo el prescio que hobiese dado por él, ante decimos que serie tenudo de dar por sí él ó el que lo feciese tornar cristiano doce maravedis de la moneda que corriese en aquel logar. . ."

[24] See notes 9 and 23.

[25] ". . . et si fasta los tres meses non lo vendiere, maguer se torne despues cristiano, nol finca al que era su señor derecho ninguno en él" (SP, IV.xxi.8). See, also, Thomas F. Glick, Islamic and Christian Spain in the Early Middle Ages: Comparative Perspectives on Social and Cultural Formation (Princeton: Princeton University Press, 1979), pp. 171-3.

Commentary 7.24.11

The concluding law of title xxiv is important in several respects. First, it embodies the least-developed legal precedent--civil or religious--of any of the previous eleven statutes of title xxiv. In Christendom, at least, legislation involving distinguishing clothing or some other such means of separating non-Christians from Christians dates from 1215, the year of the fourth Lateran council. Alfonso is thus incorporating into the Siete Partidas a law based upon a statute of canon law drafted only some fifty years prior to the completion of the Siete Partidas. Second, not surprisingly, given its ecclesiastical origins, Law 11 exhibits the most apparent utilization of canon law as an essential source of the secular legislation of title xxiv. Finally, this last law is the most clear-cut attempt to establish an overt, unequivocal demarcation between Jews and Christians. Certainly in the previous laws Alfonso has delineated and clarified various differences between the two groups, either to protect basic Jewish institutions or to delimit the influence of Jews and Judaism. This concluding law, however, most clearly testifies to the fundamental disparity felt by Christians to exist between themselves and Jews.

Prior to the thirteenth century, Jews (and Christians, for that matter) under Arab domination had been constrained to bear some type of distinguishing mark, either to obviate mistaken identities or as a sign of their inferior status. The earliest such mandate appears in the seventh-century (?) Pact of ᶜUmar, in which both Jews and Christians are enjoined to wear clothing of such a nature as to distinguish them from their Muslim neighbors.[1] In Sicily, during the ninth century, the Arab conquerors of the island ordered Christians to affix a porcine figure to their doors and their garments, while Jews were to display a representation of a monkey or donkey.[2] Later, in the thirteenth century, the Mamluks of Egypt sought to differentiate believers, i.e., Muslims, from non-believers, primarily Jews and Christians, by means of a rigid dress code.[3]

Although pictorial representations of distinctive dress required of Jews by Christian authorities exist before the thirteenth century,[4] it is to canon 68 of the fourth Lateran council that we must look for the first law. The pertinent canon is as follows:

> In nonnullis provinciis a Christianis Iudaeos seu Sarracenos habitus distinguit diversitas; sed in quibusdam sic quaedam inolevit confusio, ut nulla differentia discernantur. Unde contingit interdum, quod per errorem Christiani Iudaeorum seu Sarracenorum, et Iudaei seu Sarraceni Christianorum mulieribus commiscentur. Ne igitur tam damnatae commixtionis excessus per velamen erroris huiusmodi ulterioris excusationis possint habere diffugium: statuimus, ut tales utriusque sexus in omni Christianorum provincia et omni tempore qualitate habitus publice ab aliis populis distinguantur [quum etiam per Moysen hoc ipsum legatur eis iniunctum].[5]

European monarchs quickly endorsed and promulgated the provisions of the Lateran canon, though with varying degrees of success. In 1221 Frederick II ordered Neapolitan and Sicilian Jews to wear distinguishing clothing, as well as to wear their beards in such a way as to distinguish themselves from non-Jews.[6] In England, Italy, France, Provence, Germany, and Spain, Jews were required to a greater or lesser degree to display some sort of distinguishing mark.[7]

Spanish Jewry was the most obdurately opposed to both secular and ecclesiastical legislation requiring distinguishing marks. Ferdinand III, for example, in 1219 was forced to accede to defiant Jewish authorities who threatened to leave Castile for Moorish territories if forced to wear distinguishing clothing.[8] Similarly, certain Aragonese Jews were emigrating to Moorish lands as a result of extortion by the clergy; i.e., Jews were being forced to buy the privilege of not having to wear the badge.[9] Honorius III, the same pope who had permitted Ferdinand III to suspend the prescript requiring Castilian Jews from displaying distinguishing marks, also authorized the archbishop of Tarragona not to enforce the provisions of the fourth Lateran council, as long as the clothes worn by Jews set them apart from Christians so that carnal intercourse should not mistakenly occur.[10]

Neither secular nor ecclesiastical authorities were, however, consistent in applying laws requiring distinguishing marks. The Aragonese monarch, Jaime I, for example, allowed Jews to wear a round cape, rather than a badge.[11] At the same time, Gregory IX was assiduous in urging the establishment of the badge in Castile and Leon, though the Jews of those kingdoms seemed often to have avoided being affected by the papal commands.[12]

The papal and conciliar decrees dealing with distinguishing marks generally include one or more of the following reasons why Jews should be easily distinguished from the faithful. By far the most common is that expressed in canon 68 of the fourth Lateran council: lest Jews and Christians mistakenly engage in sexual relations.[13] A second reason, also mentioned in canon 68, is that Moses himself had enjoined the Jews to distinguish themselves in dress from Gentiles (Num. xv.37-41).[14] Finally, Jews were to avoid dressing in such a way as to imitate the clergy or other individuals deserving of respect.[15]

Of these three reasons, Alfonso cites only the first in Law 11. Here he follows closely the rationale--and to some extent the language--expressed in canon 68 concerning the need for some sort of sign to distinguish Jews from Christians:

> Muchos yerros e cosas desaguisadas acaescen entre los cristianos e las judías e las cristianas e los judíos porque biven e moran de so uno en las villas e andan vestidos los unos assí como los otros. E por desviar los yerros e los males que podrien acaescer por esta razón, tenemos por bien e mandamos que todos quantos judíos e judías bivieren en nuestro señorío que trayan alguna señal cierta sobre sus cabeças, e que sea atal por que conoscan las gentes manifiestamientre quâl es judío o judía.

The central issue here is concern with intimate relations between Jews and Christians resulting from their living in proximity to each other and associating together.[16] Both Jewish and Christian religious authorities endeavored to maintain as separate an existence as possible between the two groups, although total segregation was impossible, as is apparent in the economic bonds, social intermingling, and the perhaps inevitable--and irresistible--attraction exerted by a forbidden love. Nevertheless, even if absolute separation of the two groups was not feasible, at least efforts could be made to obviate erroneous sexual relations between Jews and Christians, though, given the social conditions of medieval Spain, it is difficult to imagine how any such union could be the result of mere ignorance. Perhaps the papal authorities were unable to admit that Christians would knowingly enter into a sexual relation with Jews or Saracens. More likely, the authorities were merely trying to remove an excuse for illicit relations. This is certainly the idea expressed in canon 68--"Unde contingit interdum, quod per *errorem*. . . Ne igitur tam damnatae commixtionis excessus per velamen *erroris* huiusmodi ulterioris excusationis possint habere diffugium"--and is no doubt echoed in Alfonso's Law 11: "Muchos *yerros* e cosas desaguisadas acaescen. . . E por desviar los *yerros* e los males que podrien acaescer. . ." In any case, Alfonso has already interdicted Jewish-Christian sexual intermingling (Law 9) and provided sufficient theological justification for his decree.

Both canon 68 of the fourth Lateran council and Law 11 of title xxiv are vague about the type of distinguishing sign to be worn by Jews. The Lateran text merely states that ". . . qualitate habitus publice ab aliis populis distinguantur. . .," while Alfonso establishes that Jews ". . . trayan alguna señal cierta sobre sus cabeças, e que sea atal por que conoscan las gentes manifiestamientre quál es judío o judía." It is evident from the variety of badges and other distinguishing marks worn by Jews during the Middle Ages that the authorities were granted considerable latitude in determining what constituted an appropriately distinguishable sign.[17] In general, it seems that Jews were more opposed to badges than to distinctive garb, such as capes, hats, or the like.[18] The present Alphonsine decree, then, may indicate a certain acquiescence on the part of Alfonso to Jewish preference for distinguishing clothing, rather than for some sort of badge.[19]

The penalty for disregarding the Alphonsine decree is set at ten gold maravedís, or ten lashes, for each infraction:

> E si algund judío non levasse aquella señal, mandamos que peche por cada vegada que fuesse fallado sin ella diez maravedís de oro. E si non oviere de que los pechar, resciba diez açotes publicamientre por ello.[20]

In sum, the final law of title xxiv, based closely upon canon 68 of the fourth Lateran council, most obviously attempts to establish by legislative fiat an overt distinction between Christians and Jews. It is perhaps inevitable, given the historical, religious, and social conditions obtaining in thirteenth-century Spain, that Law 11 should be a harbinger of a later, even more profound separation of Jews and Christians.

NOTES (7.24.11)

[1] There is some debate as to when and under which caliph the Pact of ᶜUmar was composed. Many scholars now contend that the document was redacted in the eighth century, possibly during the caliphate of ᶜUmar b. ᶜAbd al-Azīz (717-720), rather that at the time of ᶜUmar b. al-Khaṭṭāb (634-644). The text is translated in Stillman, *The Jews of Arab Lands*, pp. 157-8. See, also, A.S. Tritton, *The Caliphs and Their Non-Muslim Subjects: A Critical Study of the Covenant of ᶜUmar* (London-Bombay, et al.: H. Milford, Oxford University Press, 1930); and Antoine Fattal, *Le Statut légal des non-musulmans en pays d'Islam* (Beirut: Impr. Catholique, 1958). The following document indicates that well into the eleventh century (1091) Muslims ordered distinguishing marks to be worn by non-Muslims. The text is taken from Ibn al-Jawzī, *Al-Muntaẓim fī Ta'rīkh al-Mulūk wa-'Uman*, IX (Hyderabad, Pakistan: Osmani Oriental Publications, 1940), p. 55: "On the fourteenth day of Ṣafar a decree went out from the caliphate compelling the protected minorities (*ahl al-dhimma*) to wear the distinguishing clothing of the non-Muslim,

and a non-Muslim girdle, and a lead dirham suspended from their necks, upon which was written *dhimmī* (protected ones), and the women to wear a dirham like this one on their throats when they entered the bath [in order] that they be recognized. And they [the women] had to wear footwear, one black and one red, and a small bell on their feet."

وفى رابع عشر صفر خرج توقيع الخليفة بالزام اهل الذمة بلبس الغيار والزنار
والدرهم الرصاص المعلق فى اعناقهم مكتوب عليه ذمى وان تلبس النساء مثل
هذا الدرهم فى حلوقهن عند دخول الحمام ليعرفن وان تلبس الخفاف فردا
اسود وفردا احمر وجلجلا فى ارجلهن

[2] B. Blumenkranz, "Badge, Jewish," in *EJ*, IV, col. 63; Grayzel, *The Church and the Jews*, p. 61. In the case of Spain and Sicily, the laws requiring Jews to wear distinguishing clothing or signs were probably influenced by Muslim practice. Honorius III's letter to the archbishop of Tarragona, "Ad audientiam nostram" (3 September 1220), says it is an ancient tradition in Spain: "ab antiquo distincxerit." On the other hand, countries with a non-Arab heritage, such as England and Germany, also enforced the wearing of distinguishing signs by Jews.

[3] Stillman, *The Jews of Arab Lands*, pp. 68-9. A further example is cited in Bernard Lewis, *Islam: Religion and Society*, II (New York: Harper & Row, 1974), pp. 323-3.

[4] Blumenkranz, "Badge, Jewish," cols. 63-4; *Le Juif médiéval au miroir de l'art chrétien* (Paris: Études Augustiniennes, 1966), pp.

15, 22, 28, 29, 71, 140. Not all of these representations, of course, necessarily indicate required dress. The purpose of these depictions is apparently not to mock Jews. In fact, physical qualities--nose, beard, and the like--rather than clothing, were most often the subject of caricatures by Christians.

[5] X 5.6.15. Grayzel also provides a concise treatment of the Jewish badge question (*The Church and the Jews*, pp. 60-70). More complete studies are available in Guido Kisch, "The Yellow Badge in History," *Historia Judaica*, 4 (1942), 95-144; Blumenkranz, "Badge, Jewish," *EJ*, IV, cols. 62-73; Baron, *A Social and Religious History of the Jews*, XI, pp. 96-106.

[6] Blumenkranz, "Badge, Jewish," cols. 67-8; Baron, *A Social and Religious History*, XI, p. 97.

[7] See, in this regard, Abrahams, *Jewish Life in the Middle Ages*, pp. 313-30; Neuman, *The Jews in Spain*, II, pp. 203f.; Cecil Roth, *The History of the Jews of Italy* (Philadelphia: The Jewish Publication Society of America, 1946), pp. 56, 97-8, 131f., 139f.; Amador de los Ríos, *Historia social, política y religiosa de los judíos*, pp. 213, 251, 438, 489, *et passim*; Baer, *A History of the Jews in Christian Spain*, I, p. 116; Finkelstein, *Jewish Self-Government in the Middle Ages*, pp. 89-90; Synan, *The Popes and the Jews*, p. 104; Grayzel, *The Church and the Jews*, pp. 60-70; Baron, *A Social and Religious History*, XI, pp. 96-106; Kisch, *The Jews in Medieval Germany*, pp. 295-9; Chazan, *Medieval Jewry in Northern France: A Political and Social History* (Baltimore-London: Johns

Hopkins University Press, 1973), pp. 149-50, 155-7, *et passim*.

In the Holy Roman Empire such strictures were not widely applied until the fifteenth century, owing primarily to the fact that Jews there were considered to be already adequately differentiated from the rest of the population. See Baron, *A Social and Religious History of the Jews*, XI, p. 101; Blumenkranz, "Badge, Jewish," cols. 69-70.

[8] Honorius III wrote the archbishop of Toledo (20 March 1219) that the decree of the fourth Lateran council regarding distinguishing signs could be suspended. The text is found in Demetrio Mansilla, *La documentación pontificia de Honorio III (1216-1227)* (Roma: Instituto Español de Historia Eclesiástica, 1965), p. 164: ("Ex parte karissimi"). See, also, Neuman, *The Jews in Spain*, II, pp. 203-4; Baron, *A Social and Religious History of the Jews*, XI, p. 99; León Tello, *Judíos de Toledo*, II, pp. 31, 33.

[9] Neuman, *The Jews in Spain*, II, p. 204; Honorius' decree ("Ad audientiam nostram") is found in Mansilla, *La documentación pontificia de Honorio III*, p. 236.

[10] *Ibid*.

[11] Blumenkranz, "Badge, Jewish," col. 66; Neuman, *The Jews in Spain*, II, p. 204.

[12] See, for example, the following letters: "Miramur si vera" (4 April 1231); "Judaei quos propria" (18 May 1233); "Cum in sacro" (7 June 1233).

[13] See Grayzel, *The Church and the Jews*, pp. 62, 106, 156, 166, 168, 184, 198, 204, 206, 208, 210, 252, 258, 282, 294, 308, 314.

[14] "And the Lord spoke unto Moses, saying: 'Speak unto the children of Israel, and bid them that they make them throughout their generations fringes in the corners of their garments, and that they put with the fringe of each corner a thread of blue. And it shall be unto you for a fringe, that ye may look upon it, and remember all the commandments of the Lord, and do them; and that ye go not about after your own heart and your own eyes, after which ye use to go astray; that ye may remember and do all My commandments, and be holy unto your God. I am the Lord your God, who brought you out of the land of Egypt, to be your God: I am the Lord your God." Synan cites Lev. xix.19 as the reference which inspired the papal command for Jews to wear distinguishing clothing, though Numb. xv.37-41 is more to the point (*The Popes and the Jews*, p. 104). Actually, neither injunction was intended primarily to separate the Israelites from their neighbors.

[15] In 1229 the Council of Tarragona decreed that "Puesto que los judíos deben distinguirse de los cristianos con signos visibles, resulta excesivamente absurdo procurar parecerse en el hábito a las personas eclesiásticas, llevando capas cerradas. Por lo cual *mandamos rigurosamente* que sean estrechados con riguroso apremio eclesiástico a abandonar tal pretensión" (canon 16) (Manuel Guallar Pérez, *Los concilios tarraconenses celebrados en Lérida [siglos VI-XV]* (Lérida: C.S.I.C., Instituto de Estudios Ilerdenses, 1975), p. 130. Solomon ibn Verga, fifteenth-century author of *Shebet*

Yehudah, notes the predilection of Jewish women to sport ostentatious apparel (p. 48):

> אמר המלך: א״כ אתם הולכין כחמור הפחמי, ונשותיכם כפרד האפיפיור,
> ואינו מן הדין.

"The king said: 'If this is so [that the Jewish men wear simple black clothing, while their wives are garbed in silk], then you are walking around like the donkey of the charcoal dealer, and your wives like the mule of the pope. And that is not proper.'" Ibn Verga is here referring to Isaac ben Joseph Benveniste (d. ca. 1224) who was called before the king to explain why Jews failed to wear the prescribed distinguishing clothing. Benveniste was able to obtain a temporary suspension of the obligation to wear the Jewish badge. The Jewish authorities also sought to prescribe modest, unpretentious clothing (Baer, A History of the Jews in Christian Spain, I, p. 235; Neuman, The Jews in Spain, II, p. 224).

[16] See the Commentary on Law 9 for additional facets of the question.

[17] See Blumenkranz, "Badge, Jewish," cols. 62-70; Grayzel, The Church and the Jews, pp. 60-70; Baron, A Social and Religious History of the Jews, XI, pp. 96-106, 329-34.

[18] Thus, James I of Aragon permitted the Jews to distinguish themselves by a capa rotunda, rather than a badge.

[19] On the other hand, Alfonso IV in 1325 commanded the Jews to attach yellow stars to their hats (Baron, A Social and Religious History of the Jews, XI, p. 100). Aragonese Jews (males) wore

some sort of distinguishing mark on their hats, while women wore one on their scarves (Shebet Yehudah, p. 148).

[21] The punishment does not appear particularly harsh, especially when compared to the penalty of ten pounds of gold or fifty lashes meted out to sympathizers of heretics (Siete Partidas, VII.xxvi.2). The Council of Breslau (1267) ordered Jews who violated the ordinance to wear a badge to pay ten marks and suffer imprisonment (Aronius, Regesten zur Geschichte der Juden im fränkischen und deutschen Reiche bis zum Jahre 1273, no. 724). Later, in 1473, the Milanese administration assessed a fine of ten gold ducats and four lashes on any Jew appearing without a badge (Baron, A Social and Religious History, p. 102).

CONCLUSION

The examination of the Alphonsine legislation directed to thirteenth-century Hispanic Jewry, as contained in Siete Partidas VII.xxiv, has engendered many questions and observations. In spite of the fact that these laws were not promulgated until the middle of the fourteenth century, they are nevertheless indicative of the juridical position adopted by Alfonso X towards his Jewish subjects. This legislation, however, embodies more than legal measures; it is a mirror, albeit one dimmed by age, which allows us to perceive the checkered relationship between Christians and Jews. We are thus able to glimpse the underlying medieval-Christian attitudes, formed through the centuries, concerning Jews and Judaism. Indeed, it is crucial to bear in mind that "De los judíos" is the work of a Christian monarch who, notwithstanding the cosmopolitan ambience of his court, was nonetheless the product of a venerable Christian heritage whose ideals he piously espoused and openly proclaimed. It is appropriate, then, given the diverse religious groups with which Alfonso surrounded himself, to examine briefly the question of tolerance within the context of "De los judíos."

As a medieval monarch and a devout Christian, Alfonso was unreservedly molded by centuries of ecclesiastical attitudes and canonical prescripts. On a general, essentially theoretical, level, neither juridical novelties nor expressions of tolerance should be sought. In fact, the initial laws of title xxiv are replete with references to religious and historical precedents regarding Jews, noting their strictly historical nobility, their purported role in the crucifixion of Jesus, and, finally, their consequent loss of political and religious standing. Thus, Alfonso considers Spanish Jewry of his time to be but a tarnished reflection of a once distinguished and valiant people. These traditional legal and theological considerations concerning Jews effectively precluded any explicit manifestations of tolerance on the part of Alfonso. The question of tolerance must, therefore, be answered within the context of the specific laws of title xxiv, rather than within the general theological and legal framework in which they were composed.

It is, of course, imperative that we not impose modern conceptions of tolerance on earlier periods or peoples. Such notions as tolerance are notoriously flexible, and it is patently unfair to label as intolerant attitudes or concepts which are in reality misconceptions on our part. Tolerance, like beauty, is often in the eye of the beholder. As such, certain measures which to the twentieth-century observer appear restrictive or intolerant may, in fact, have been tacitly accepted or even desired by individuals in the medieval period. (Such was the case, for example, with the strictly delineated separation of religious groups from one another.)

In assessing the individual laws of title xxiv concerning Alphonsine tolerance, the central question to be answered is the following: Are these laws designed primarily to protect Jews or, rather, are they to serve Christian interests? It may be concluded that in those instances where the conflict is between Christianity and Judaism, or where canon law would be violated (e.g., blasphemy against the articles of the Christian faith, social intercourse between Jews and Christians, proselytizing in favor of Judaism, etc.), Alfonso had perforce to side with the established Christian position. A notable exception is Alfonso's violation of the canonical prescript forbidding Jews to hold positions of honor or authority over Christians. In this case, the administrative and fiscal importance of highly-placed Jews effectively overshadowed the canonical prohibition.

In the two areas of vital interest to Jews--religious practice and economic livelihood--Alfonso is notably tolerant. This tolerance is clearly evident in the three laws dealing with religion: protection of the synagogue, recognition of the sanctity of the Sabbath for Jews, and proscription of forced conversions. Alfonso was undoubtedly aware that Jews would not compromise on these core elements of Judaism and, therefore, granted them tolerant provisions in these areas. In the first case, Alfonso extends the provisions of canon law regarding the synagogue to ensure that Jews remain undisturbed in their house of worship. Likewise, not only does Alfonso enact broad provisions to safeguard the sanctity of the Sabbath, but he also requires Jews to appear in public court only for litigation involving Jews and Christians. Alfonso's legislation is thus more generous than the Roman legal precedent. Finally, in his prohibition of forced conversion to Christianity, Alfonso recognized the injustice of absolute coercion and the importance of allowing Jews to accept conversion without compulsion.

In the economic sphere, Alfonso's tolerance towards Jews is less obvious, though nevertheless evident. In particular, the legislation contained in laws 8 and 10 affecting Jewish landowners, physicians, and slavedealers, indicates a concern for Jewish economic interests. Alfonso does not violate canon law, but frames his legislation in such a way as to permit Jews to function within its limits.

In sum, notwithstanding his dependence upon a long-standing ecclesiastical and civil legal tradition, itself incorporating many disabilities towards Jews, Alfonso was able to frame legislation designed to protect Jewish economic and religious interests. In this respect, at least, Alfonso was not only Wise, but also Tolerant.

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